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# DEVIANCE IN INTERNATIONAL RELATIONS

'Rogue States' and International Security

Edited by **Wolfgang Wagner,**  
**Wouter Werner** and **Michal Onderco**



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DEVIANCE IN INTERNATIONAL RELATIONS  
'Rogue States' and International Security

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# Deviance in International Relations

**'Rogue States' and International Security**

Edited by

Wolfgang Wagner

Wouter Werner

and

Michal Onderco

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# Preface and Acknowledgments

This book has emerged from the LLM program ‘Law and Politics of International Security’ at VU University Amsterdam. Two of the editors, Wouter Werner and Wolfgang Wagner, have been teaching and coordinating this program since its inception in 2007. The third editor, Michal Onderco, was a student on the program in 2009–2010. ‘Rogue states’ and the issue of ‘deviance’ soon appeared as topics of common interest. Moreover, these topics seemed a fitting illustration of the LLM program’s key idea, namely that a growing number of issues in international security can only be fully understood if insights from both international law and international relations are combined. Several chapters in this volume operate at the intersection of international law and international politics or combine insights from law and criminology with theories developed in political science.

This edited volume would not be possible without the generous financial support of the Netherlands’ Organisation for Scientific Research for Michal’s doctoral research on policies towards ‘rogue states’, which was written alongside and with an obvious overlap with this book.

A selection of the papers in this volume has been presented at the annual convention of the International Studies Association in New Orleans in 2010 and at the General Conference of the European Consortium for Political Research in Reykjavik in August 2011. We are grateful to Tanja Aalberts and Kai Oppermann who were these panels’ discussants for their comments and suggestions.

# Notes on Contributors

**Bernd Bucher** is a Lecturer at the University of Bielefeld. He received his PhD from the University of St. Gallen. He has written on monist approaches to the study of international relations, especially the role of figurational sociology for social constructivist thinking, and the implications for democratic peace theory. His current research focuses on constitutionalization processes beyond the nation state in the long nineteenth century. His work has appeared in *Human Figurations*.

**Luigi Corrias** is Assistant Professor in the Faculty of Law at VU University Amsterdam, within the Boundaries of Law research program. His research deals with community and identity in the European and international legal order, combining insights of phenomenology with legal and political philosophy. He obtained his PhD in Philosophy from Tilburg University in 2010. He is the author of *The Passivity of Law: Competence and Constitution in the European Court of Justice* (2011). His other work appeared in the *German Law Journal*.

**Gunther Hellmann** is Professor of Political Science at Goethe University in Frankfurt and Principal Investigator in the Cluster of Excellence 'Formation of Normative Orders'. Previously, he held posts at the Free University (Berlin), where he also received his PhD, Darmstadt University and the Peace Research Institute Frankfurt. He was Visiting Professor at Johns Hopkins' SAIS Bologna Center and Dartmouth College. His research interests are in the fields of German and European foreign policy, European and transatlantic security relations and theory of international relations. His work has appeared in the *International Studies Review*, *Journal of International Relations and Development*, *Review of International Studies* and *International Security*. He is the editor of *De-Europeанизation by Default. Germany's EU-Policy in Defence and Asylum* (2006).

**Daniel Jacobi** is Research Associate and Lecturer at Goethe University Frankfurt as well as a Research Associate in the Cluster of Excellence 'Formation of Normative Orders'. His research focuses on the theory of knowledge in international relations in general and a theory of security communication in particular. His work has appeared in *International Political Sociology*, *International Studies Review*, *Journal of International Relations and Development* and *Zeitschrift für Außen- und Sicherheitspolitik*.

**Jorg Kustermans** is a researcher at the Flemish Peace Institute in Brussels. He obtained his PhD from the University of Antwerp with a dissertation on the democratic peace. His current research deals with youth groups and urban violence. He has published articles in the *Journal of International Relations and Development*, *Review of International Studies*, *European Review* and *Thesis Eleven*.

**Akan Malici** is Associate Professor of Political Science at Furman University. He is the author of *When Leaders Learn and When They Don't* (2008) and *The Search for a Common European Foreign and Security Policy* (2008). He is the co-author of *U.S. Presidents and Foreign Policy Mistakes* (2011) and co-editor of *Rethinking Foreign Policy Analysis* (2011). Articles have appeared in *The Journal of Conflict Resolution*, *The Journal of Peace Research*, *Political Psychology* and other journals.

**Michal Onderco** is a doctoral researcher in the Department of Political Science and Public Administration at VU University Amsterdam. In 2012–2013, he was Fulbright visiting researcher at Columbia University. His research interests include norm deviance in international relations, nuclear proliferation and the Global South. His work has appeared in *International Studies Quarterly*, *Nonproliferation Review*, and *South African Journal of International Affairs*.

**Wolfgang Wagner** is Chair of International Security at VU University Amsterdam. He was previously Senior Research Fellow at Peace Research Institute Frankfurt (2002–2007) and Lecturer at Johann Wolfgang Goethe University in Frankfurt (1999–2002). His research has focused on the interaction between democratic politics and conflict. He has published articles in *Armed Forces and Society*, *Ethnopolitics*, *International Studies Quarterly*, *Journal of Peace Research*, *Journal of European Public Policy*, *Journal of International Relations and Development*, *Nonproliferation Review*, *Review of International Studies* and *Foreign Policy Analysis*.

**Stephen Walker** is Emeritus Professor of Political Science at Arizona State University. He received his PhD from the University of Florida. He is the author (with Akan Malici) of *U.S. Presidents and Foreign Policy Mistakes* (2011) and the editor (with Akan Malici and Mark Schafer) of *Rethinking Foreign Policy Analysis: States, Leaders, and the Microfoundations of Behavioral International Relations* (2011). His research has also appeared in several journals, including *World Politics*, *Journal of Conflict Resolution*, *Journal of Peace Research*, *Political Psychology*, and *International Studies Quarterly*. He has served as a Vice-President of the International Studies Association and the International Society of Political Psychology.

and received the Distinguished Scholar Award from the Foreign Policy Analysis Section of the International Studies Association in 2003.

**Christian Weber** is Research Associate and Lecturer at the Institute for Political Science at Johann Wolfgang Goethe University Frankfurt. His work appeared in *Politische Vierteljahresschrift*. Together with Gunther Hellmann and Frank Sauer he co-authored *The Semantics of the New German Foreign Policy* (2008).

**Wouter Werner** is Chair of the Interdisciplinary COST funded research network on foundational changes in international law and director of the research program Boundaries of Law at VU University Amsterdam, and is a co-founder of the Centre for the Politics of Transnational Law at VU Law Faculty. Since 2006, he has been a member of the International Law Advisory Council to the Dutch Ministry of Foreign Affairs. His work has appeared in *European Journal of International Law*, *Review of International Studies*, *International Theory* and *Security Dialogue*. He co-edited volumes on 'cosmopolitanism' and the concept of 'humanity' as well as a volume on standards of review across international law.

**Carmen Wunderlich** is Research Associate at Peace Research Institute Frankfurt. Her research interests include the role of norms and justice in international relations with a focus on arms control and disarmament. Her work has appeared in the *Nonproliferation review*. She has recently edited with Harald Müller *Norm Dynamics in Multilateral Arms Control: Interest, Conflicts, and Justice*.

# 1

## Rogues, Pariahs, Outlaws: Theorizing Deviance in International Relations

*Wolfgang Wagner, Wouter Werner and Michal Onderco*

### **Deviance and the study of international relations**

Whereas the analysis of deviance is an established element in the study of domestic societies, it seems conspicuously absent from International Relations (IR), that is, the study of the international society of states. Sociologists have defined deviance as behavior that violates social norms and thus attracts disapproval and sanctions if detected.<sup>1</sup> It is thus distinct from behavior that is merely unusual in a statistical sense (Johnson 1995: 78). The specific content and form of the social norms, their violation and the sanctions to follow are context dependent and cannot be determined in advance. Likewise, sociologists have disagreed over the causes and consequences of deviance as well as the appropriate way to study it (see among others Downes and Rock 2011 [1982], chapters 1 and 2). At the same time, few would dispute Émile Durkheim's notion that deviance is a main driving force of societal development and its study is a key to understanding a society's norms and values.<sup>2</sup> This begs the question why so little attention has been given to deviance in IR, understood as 'a flouting of key norms of conduct espoused by the global community, or at least by those who have asserted a credible right to speak for it' (Nincic 2005: 2). We argue that both theoretical and metatheoretical reasons have prevented IR scholars from studying deviance in much depth.

In terms of theory, the negligence of deviance can be understood as a legacy of structural theorizing. Neorealism which dominated the field during the Cold War and remained the main point of reference for competing theories ever since has emphasized that the anarchic structure of the international system does not allow for any meaningful functional differentiation. According to its most eminent proponent, Kenneth

Waltz, the structure of the international system has pressured states to become 'like units' (Waltz 1979: 95–7). The international system is a self-help system in which some states 'do relatively well, *others will emulate them or fall by the wayside*' (Waltz 1979: 188, emphasis added).

Of course, neorealism has attracted a great deal of criticism; however, to a considerable extent, critics have suggested amendments and revisions to, rather than a transgression of, structural theory. Neoliberal institutionalists argued that anarchy leaves more room for cooperation among egoistic utility-maximizers than neorealists assumed would be the case without challenging neorealism's core assumptions (Keohane and Martin 2003). Constructivists argued that state action is not solely driven by cost-benefit calculations in the first place but by norms, values and identities as well. In doing so, however, they modified but did not jettison the idea that the international system exerts strong uniforming powers.<sup>3</sup> Martha Finnemore, for example, argued that international organizations teach norms to member states which, as a result, became alike in many respects (1996). While emphasizing possibilities for entrepreneurial action, the voluminous literature on international norms shares the basic notion that international norms, once established, are internalized by states and, as a consequence, make them alike (cf. Finnemore and Sikkink 1998). A similar tendency can be witnessed in so-called compliance studies of international law, which basically seek to explain international law's normalizing, and thus homogenizing power. Illustrative is Koh's groundbreaking article, which seeks to answer the question 'why repeated compliance gradually becomes habitual obedience' (Koh 1997: 2603).

The most prominent challenge to structural theorizing as such has come from the so-called liberal school of thought. Based on a "bottom-up" view of politics' (Moravcsik 1997: 517), liberals see state action as a result of domestic interests and institutions. As a consequence, states' foreign policies are as diverse as the societies they represent. At first glance, this embracement of pluralism seems a good starting point for the study of deviance in IR. However, the concept of deviance requires strong international norms as a reference point which is exactly what liberalism lacks. Taken together, the four major schools of thought in IR all share a tendency to turn a blind eye on deviance in IR – either because they privilege structural theorizing over the investigation of agency, or because they lack a concept of international structure without which deviance becomes indiscernible.

In a similar fashion, international law as such is generally portrayed as a normalizing force in IR. Handbooks in international law routinely

refer to failed attempts of revolutionary regimes to denounce the validity of international law, discussing how such regimes eventually returned to the legal community of states and its standards of behavior. And although the very existence of international law is of course based on the *possibility* of norm-violating behavior, such violations are treated as disruptions of normalcy that call for 'reparation'. The law of state responsibility, for example, aims at identifying deviations from existing norms and restoring the normal condition of norm conforming behavior. As Brownlie put it: 'The question of responsibility is, in practical terms, a matter of insistence on performance or restoration of normal standards of international conduct' (Brownlie 1983: 22). Nowhere does the law of state responsibility go so far as to claim that states that violate international norms become *criminal*, let alone lose their standing as equal sovereigns under international law. Yet, in international (legal) practice some regimes have been effectively labeled as unredeemable violators of international law and some states have lost considerable parts of their sovereign rights. One only needs to think of Iraq in the 1990s to realize how much international legal instruments can facilitate the labeling and management of states as renegades. The vocabulary of international law, however, hardly makes it possible to make sense of these practices in legal terms.

In IR, the dominance of a positivist metatheory further contributed to the negligence of deviance. According to its proponents, IR should aim at the detection of patterns and regularities, if necessary at a 'medium range' to address what Leppgold calls 'issue-oriented puzzles' (1998). Especially in quantitative analyses, this discouraged the study of deviance. Instead, deviant cases were understood to be non-representative and, as a consequence, treated as 'noise', that is information without relevance for the study of regularities and patterns (Belsey et al. 2004, Fox 1991). Likewise, in small-n, comparative analyses, case selection techniques have been designed to identify and exclude 'outliers' from the analysis because their inclusion was seen to unduly bias the results. In international law, positivism has resulted in a strong emphasis on doctrinal analysis, which tied the legal scholar to a particular and restricted vocabulary. As international law does not know categories such as 'outlaw', 'renegade' or 'rogue states', this has hampered the study of formal inequality in the international order. Not surprisingly, the few studies that have been conducted on this topic (for example, Bederman 2002, Simpson 2004) have taken into account insights from adjacent disciplines such as political science and philosophy.

In contrast to the standard wisdom that the study of deviance obstructs insights into IR, this volume starts from the opposite assumption that it provides fruitful avenues of research yielding new perspectives on IR. In addition, this volume departs from the assumption that studying international law's involvement in the creation of 'outlaw states' offers useful insights into the practical workings of international law and institutions.

The contributions to this volume therefore focus on those states that have been effectively labeled as persistent and/or grave violators of core norms of the international community. To designate the special status of these states (and to draw a line between them and the rest of the international community), various labels have been used, including 'rogues', 'pariahs', 'renegades', 'states of concerns' or 'dissidents'. The choice of label is everything but innocent as different labels come with different assumptions about the sources of deviance and appropriate policy responses. Most notoriously, the introduction of the term 'rogue state' by the Clinton administration has been understood as a sign of resolve to confront these states, if necessary with military means (Litwak 2000). In contrast, the subsequent replacement of 'rogue state' with 'state of concern' by the same administration has signaled a de-escalatory policy (Feinstein and Slaughter 2004). By the same token, the re-introduction of the term by the Bush administration has come with a new resolve to confront them. Our decision to talk about 'rogue states' throughout this introduction therefore is a compromise. On the one hand, we want to benefit from the defining power of the US government that succeeded in establishing 'rogue state' as an almost universally recognized and understood label. On the other hand, we feel obliged to add inverted commas to emphasize that we do not consider these states to have any objective quality of rogueness.

Quite the opposite, any attempt to define 'rogue states' by any set of objective criteria is doomed to fail. Although the acquisition of Weapons of Mass Destruction (WMD), aggression and support for terrorism are frequently suggested as defining elements of rogueness (Homolar 2011, O'Reilly 2007), a closer look reveals that double standards are used when states are singled out for their alleged rogueness (pleasurably pointed out by Chomsky 2000). The key to understanding the politics of labeling states as rogues lies in understanding where the defining power of doing so lies (Nincic 2005). Clearly, since the end of the Cold War, democracies have acquired such a powerful position in the international system that rogueness has sometimes become identified with not being a democracy in the first place. However, the discourse on



persistent violators of basic community norms is not limited to what (self-proclaimed) democracies say about their non-democratic counterparts. It also covers practices of international organizations such as the United Nations Security Council or the International Criminal Court delegitimizing regimes that violate human rights and/or threatening international security.

## **Contribution to existing scholarship**

The study of 'rogue states' has been the homeground of policy analysis, often based in think tanks, rather than universities (for notable examples, see Cha 2002, Cha and Kang 2003, Cordesman and Toukan 2010, Dobbins et al. 2011, Haass and O'Sullivan 2000, Henriksen 1999, O'Sullivan 2000, Perthes 2008).<sup>4</sup> In the post-Cold War era, 'rogue states' have emerged to epitomize a main threat to international peace and security. Interestingly, this threat perception is compatible with a wide range of understandings of international peace and security: from a traditional, state-centric view, states become 'rogues' if they attempt to acquire and proliferate Weapons of Mass Destruction and threaten their neighbors with the use of force. Proponents of a 'human security' perspective would instead emphasize the actual harm done to their own citizens in addition to the potential use of force against other states. Yet others would highlight the support of terrorism as a defining feature of 'rogue states'. More often than not, these aspects conflate and add one to another.

In most policy analysis, 'rogue states' are treated as a pre-given category under which states are subsumed according to objective criteria – even though the precise nature of these criteria may be contested.<sup>5</sup> The driving question then boils down to 'what we should do about rogue states'. This is not the question we seek to answer in this book. Instead, this volume problematizes the very practice in which states or regimes are labeled as rogues and subjected to specific disciplinary regimes. Its main question is what the labeling, disciplining and activities of 'rogue states' tell us about the deep structure and underlying values of the international society as a whole. With its focus on the constitutive processes our study builds on two streams of literature that so far have dealt with processes of labeling states as 'rogues': social constructivism and critical IR scholarship.

Social constructivism emphasizes that the category of 'rogue states' is not pre-given but socially constructed. Most studies in this tradition have examined the emergence of the 'rogue state' concept in the United

States after the end of the Cold War (see among others Homolar 2011, Hoyt 2000, Stritzel and Schmittchen 2011). They typically emphasize the concept's roots in 'America's unique political culture' in which 'international affairs is cast as a struggle between forces of good and evil' (Litwak 2000: 63). With a slightly different emphasis, Alexander Wendt points out that 'rogue states' are 'constituted by social relations to other states in the form of the representational practices of the international community (and of the Great Powers in particular)' (Wendt 1998: 113).

Within critical IR studies, 'rogue states' have been studied predominantly as products of the 'power to define'; the authority of (hegemonic) states to dictate what counts as basic community norms and the ability to determine who should be regarded as perennial or unredeemable violator of those norms. In terms often indebted to Carl Schmitt's reading of the post-World War I regime, the creation of 'rogue states' is portrayed as embedded in a liberal, universalistic order defined and upheld by US power. Within an international order based on radically uncertain terms such as 'humanity', 'humaneness' and 'mankind', those who challenge the authority of the hegemon are easily labeled as 'enemies of mankind', who lack respect for basic considerations of humanity. In this context several authors have pointed at structural resemblances between the way in which Germany was treated after the First World War and the way in which the Bush government has sought to respond to the 9/11 attacks, including the labeling of states as 'rogues' and the adoption of extraordinary measures of dubious legality.

This volume builds on three basic insights developed in social constructivism and critical theory: (1) 'rogue states' are the product of constitutive linguistic acts (2) 'rogue states' are defined in terms of hegemonic conceptions of legitimate statehood in a particular era (3) the power to define and manage 'rogue states' is distributed unevenly across states – hegemonic powers have a privileged position in this respect.

However, our study aims to go beyond the insights already developed in constructivist and critical scholarship. In particular it takes up five areas of research that have been (relatively) understudied so far.

(a) *The role of comity and decency*

So far 'rogue states' have been mainly understood as those that violate norms protecting specific rights and interests of states (for example, the prohibition of aggression) or individuals (specifically basic human rights and the laws of armed conflict). Much less attention has been paid to the importance of diplomatic mores for the labeling of 'rogue

states'. As argued in this volume, labeling states as 'rogues' is not always just a matter of norm violation and the interests of hegemonic states; it can also be the result of *diplomatic irritation* following a state's persistent unwillingness to respect rules of comity and respect in interstate relations.

(b) *The roguish view*

In most studies 'rogue states' appear as the target of labeling and disciplining acts by other, more powerful states. However, states that are defined as 'rogues' do not lose their agency; they have to find their way in the newly constructed symbolic order where they are now perceived and treated as 'rogues'. What is the impact of labeling states as 'rogues' on their self-image, self-presentation and subsequent behavior? While constructivist scholarship has emphasized the constitutive effects of acts of labeling, it has done little in explaining how the fact that a state is labeled as 'rogue' influences the manners in which it presents itself and acts towards the outside world.

(c) *Dissent in the ranks*

There is a tendency in existing scholarship to treat states that agree on the roguish nature of another state as a monolithic whole (for example, 'Western states' or 'democracies' agreeing on the roguish nature of Iran or North Korea). This imagery, however, fails to do justice to the sometimes widely diverging views on how one should deal with 'rogue states'. Even if a coalition of states agrees that a particular state should be regarded as a 'rogue', this consensus does not automatically translate into agreement on how to treat the outlier state. Apparently, understanding the treatment of 'rogue states' requires a more careful study of the different ideologies that affect the way in which states deal with deviant behavior.

(d) *De-rogueing*

Constructivist scholarship has rightly pointed out that the term 'rogue state' is not a descriptive term that refers to a pre-existing reality; 'rogue states' are created through the application of the term itself. However, if states can be turned into 'rogues' through constitutive acts, it is also possible to de-rogue them via similar means. And indeed international politics has witnessed several instances of particular states being 'de-rogued' or even of a denunciation of the use of the term 'rogue state' in foreign policy altogether. Such practices of de-roguing, however, have not been studied extensively in constructivist or critical scholarship.

Through case studies of Libya and the recent transformation of US foreign policy towards 'rogues', this volume aims to contribute to a better understanding of the practice of 'de-rogueing'.

(e) *The role of law*

In critical scholarship there is no lack of attention for the role of international law in the labeling and management of 'rogue states'. The persistent deviance of 'rogue states', after all, is to a large extent defined in terms of international law, in particular the vocabulary of human rights, humanitarian law and the prohibition of aggression. The way in which international law is brought in, however, is somewhat one-sided: whereas critical studies have rightly pointed out that international law can be mobilized by hegemonic states to declare their enemies to be 'rogues', much less attention has been paid to the ways in which 'rogue states' are protected by international law. Rather than simply being an instrument for the powerful, international law is a discursive space that is also open for deviant actors in the international community. This volume seeks to do justice to international law's ambivalent role in relation to 'rogue states'; to both the facilitating and the constraining role it plays when it comes to the creation and disciplining of 'rogue states'.

## Overview of the chapters

The role of comity and politeness in discourses on 'rogue states' is central to the chapter by *Jorg Kustermans*. His chapter studies the nature of the concept of 'rogue' and sets it apart from alternative labels such as 'pariah', 'outlaw' and 'renegade'. What makes states 'rogues', Kustermans argues, is not so much that they violate norms, but rather their offensiveness, their roughness, their unwillingness to behave in accordance with the rules of international comity and polity. This is not to say that 'rogues' are treated as radical others; Kustermans takes issue with the popular understanding of 'rogues' in terms of inside and outside, 'us' and the Other. Instead, he argues that 'rogues' are created against the background of particular understandings of the nature of international society and the personhood or citizenship of states. Different readings of personhood or citizenship create different possibilities to identify states as 'rogues' and to act accordingly. Based on an analysis of Obama's renunciation of the 'rogue' as a category of foreign policy, Kustermans shows how changing conceptions of international citizenship have affected the possibilities of making sense of the world in terms of 'rogue states'.

*Luigi Corrias's* chapter moves the analysis of comity and politeness in relation to 'rogues' to a more philosophical level. The main question in this chapter is what is ultimately at stake in describing some states as 'rogues'. Taking cues from Kant, Schmitt, Rawls and Derrida on the one hand, and (the twentieth century) state practice on the other, it aims to show how the concept of a 'rogue state' works. Showing its relationship with the notion of sovereignty, the chapter argues that 'rogue-ness' is used to reinforce values and identities bound up with 'civilized behavior' that has to be set apart from barbarian behavior that shocks the consciousness of the civilized world. The concept of 'rogue states' thus shows us how the boundaries of a 'world community' are constructed and reinforced.

*Bernd Bucher* contributes new insights into the social constructedness of 'rogue states' by examining a historical episode of 'rogueization' in Europe. Bucher shows that the stigmatization of and subsequent military action against revolutionary Naples in 1820/21 followed an interpretation of liberal democracy as an immediate threat to international peace and stability. The case study thus demonstrates the historical contingency of links between a state's regime type and its status in the international community. Drawing on processual-relational theorizing, Bucher outlines that the conditions of possibility of 'rogue state' emergence are closely tied to the successful articulation of standards of legitimacy within emerging orders of justification. While the theoretical argument that semantics of legitimacy inform 'we-they' relations among international actors is well understood, the argument brought forward by Bucher engages the implications of this finding in regard to the cooperation / conflict dichotomy. Rather than treating cooperation as an *a priori* desirable state of affairs or in terms of 'win-win situations', this chapter highlights the political dimension of (great power) cooperation and conceptual unity. Studying great power cooperation and 'rogue state' emergence suggests that IR theory, and therefore not only the 'rogue state' literature, should be more willing to ask about 'who cooperates in what regard, to what end and to whose/which detriment'.

The chapter by *Carmen Wunderlich* analyzes the foreign policy of one particularly prominent 'rogue state', Iran, from a constructivist perspective. In applying key constructivist concepts of 'international norms' and 'norm entrepreneurship' to a 'rogue state's' actions, she breaks with the vast majority of constructivist studies that have silently reserved these terms to liberal and humanitarian norms and entrepreneurs. By framing Iran's policy not as norm-violating but as norm-creating, she explores to what extent constructivist scholarship has been limited by

the biased selection of cases. Moreover, by focusing on the 'rogue state' as an entrepreneur rather than as a subject of hegemonic intervention, she adds relevant insights to critical scholarship.

*Daniel Jacobi, Christian Weber and Gunther Hellmann* share the basic premise of this volume that 'rogue states' are the product of constitutive linguistic acts, thus 'discursive weapons' rather than analytical concepts. In contrast to other contributions to this volume, however, they refrain from using the term 'rogue' (with or without inverted commas) and deliberately replace it with the concept of dissidence. This re-labeling aims at a change in perspective that is irritating in a productive way. Characterizing deviant foreign policies as 'dissident' forces researchers to see things from the weaker side of existing power relations. Furthermore, the chapter proposes a distinction between three ideal-typical strategies of dissident foreign policy: (1) practices of separation/ (self-) isolation, (2) export of revolution, and (3) anti-hegemonic projects of integration. Whereas the first variant might be solely aimed at upholding the *status quo* and thus potentially being of a rather oppositional character, revolutionary and integrative processes involve the articulation of a conceivably more radical criticism towards existing orders.

The chapter by *Akan Malici and Stephen G. Walker* studies the mutually constitutive practices between hegemonic states and 'rogue states'. In order to lay bare the interactive logic in foreign policy, it introduces the role theory into the study of the US' attitude towards the North Korea, Cuba, Syria and Iran. Starting with role conceptions of Self and Other taken up from the work of Ole Holsti, the authors argue that the Other is a priori defined by Self as a potential enemy. How the eventual interaction between Self and Other plays out depends, mostly, on the series of positive and negative cues derived from the behavior of the states. By looking at renegade states, Malici and Walker assess how the negative view of each other affects their interaction. In particular, the authors argue that the Cold War policy of the United States towards North Korea, Cuba, Syria and Iran was driven by a mistaken belief in the domino theory, eventually resulting in policies which were neither inevitable nor beneficial for the United States. The solution to the self-fulfilling prophecy of negative outcomes is altercasting, a strategy of an alternative self-presentation and of generous gestures towards the other side.

*Wolfgang Wagner's* chapter examines the policy debate on how to deal with so-called 'rogue states'. This debate has revolved around questions of confrontation and accommodation. At first glance, these strategies

seem all too familiar to students of the security dilemma. Drawing on a criminological perspective, however, Wagner demonstrates that they actually reflect different criminologies, that is different assumptions about the sources of deviance and subsequent prospects of re-socialization. Those pleading for an accommodationist policy towards 'rogue states' seem inspired from a rehabilitative criminology that traces 'rogue-ness' to shortcomings in the socialization process. Just as social programs aim at the re-socialization of domestic criminals, diplomacy and security re-assurances are designed to re-integrate the 'rogue state' into the international community. In contrast, proponents of a more confrontational policy towards 'rogue states' subscribe to a retributionist criminology that views criminals as intrinsically different from the rest of the community and advocates harsh punishments for moral purposes.

*Michal Onderco's* contribution looks at the demise of the 'rogue states', a neglected area of the study of 'rogue states'. While the study of the emergence of 'rogue states' abound, it is far less frequent to study their end. Yet when we acknowledge that renegade statehood is socially constructed, the end of such a social construction is a matter of re-construction. In his chapter, Michal Onderco explores how the British government managed the transformation of the image of the Libyan regime from one of a renegade to one of a respected partner. By looking at the reversal of the frames, we learn about the ability of the policy-makers to steer public opinion by re-construction of frames.

*Wouter Werner's* chapter focuses on the ambivalent role of international law in the labeling and management of renegade states or regimes. On the one hand, international law offers states more robust protections against interventions than ever before in history, with an egalitarian spirit and peremptory norms against armed intervention. On the other hand, international law provides a cosmopolitan vocabulary that can easily be mobilized to label states or regimes as renegades and to undermine the protections that normally apply. His chapter illustrates the ambivalent relation of international law to renegades through a study of two institutions: the United Nations Security Council and the International Criminal Court. In both cases, law has been used to set specific states or regimes apart as unredeemable norms-violators. At the same time, however, the two examples show that international law cannot be reduced to an instrument for hegemonic politics. Using international law to achieve political ends is a specific way of doing politics; a *legalistic* way of outlawing regimes that sets states apart, but simultaneously offers them a vocabulary to contest their status in international society.

## Notes

1. Compare Cohen (1959), Himmelweit (1964), Jennes and Goodman (2006).
2. Compare Durkheim (1984 [1893], especially chapter 2), 1982 [1895]).
3. It has to be noted, however, that the neglect of agency has been a prominent issue among constructivists (see, among others, Checkel 1998).
4. A noteworthy exception is of course John Rawls (1999) whose concept of 'outlaw states' comes very close to the concept of a 'rogue state'.
5. According to Dueck, the term 'rogue state' 'does capture certain undeniable international realities, namely, the continuing existence of numerous authoritarian states that support terrorism, seek weapons of mass destruction, and harbor revisionist foreign policy ambitions' (2006: 224). Caprioli and Trumbore instead propose that rogue states are 'any states that systematically allow domestic discrimination and inequality on the basis of ethnicity and gender, and perpetrate systematic repression against their own citizens' (2003: 378).

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# 2

## 'Roguary' and Citizenship

Jorg Kustermans

### Introduction

It is not uncommon to argue that 'rogue states' *as such* do not exist. Rather states are cast as 'rogues'. The American defense industry, and with it the political and military leadership, articulated the concept in order to (1) make sense of the new security environment, or to (2) safeguard very specific financial interests (Klare 1995). A first strength of this argument is that it emphasizes the non-objective quality of the 'rogue state' label. A second strength is that it recognizes that the history of the 'rogue' traces back farther than 9/11 and the Bush Jr. presidency (Homolar 2011). A relative weakness of the argument, however, is that its historical remit remains rather narrow. The notion of a 'rogue' traces back far beyond the end of the Cold War. A second relative weakness is that it apparently trades objectivity for subjectivity (Oren 2003). The argument, that is, typically interprets the discourse on 'rogue states' as an *American invention*. But rather than subjective, the category is intersubjectively established. It was not invented but re-appeared, and it did not re-appear from within American memory only, but from within a broader Western one.

Intersubjectivity – the ever fragile sharing of social and cultural codes, symbols and understandings – has a double source: social intercourse and historical memory, interaction and tradition (cf. Navari 2011). The argument of this chapter is that the current discourse on 'rogue states' in international relations is embedded in a broader tradition of political thought. The behavior of certain states, that is, clashes with the rules and mores that the *liberal-republican* tradition champions – and these states we call 'rogues'. However, because different traditions of political thought inform the practices of international relations simultaneously,

because international relations is a polysemous discourse, the labeling of these states as 'rogue' is a fragile accomplishment. The discourse on 'rogue states' shares in the fragility of all things intersubjective.

Three main sections follow. A first section discusses a common alternative explanation of the rogue state discourse, which wagers that 'rogue state' intersubjectivity results from interaction foremost. The explanation points to processes of identity and otherness. However, precisely because the account is ultimately ahistorical, it cannot account for the particularity of the discourse on 'rogue states'. Just which identity is being established? A second section then explains why an analysis in terms of traditions of political thought is more appropriate. It departs from the deceptively simple observation that naming 'North Korea [...] a rogue [is a] personifying metaphor' (Luoma-aho 2009: 1–2). A 'rogue' (state) is a person, but it is somehow an improper one. *Proper personhood* is obviously a political category, so that getting a handle on *the substance* thereof, requires that one engages the history of political organization and thought. A third section, finally, demonstrates how President Obama's original disavowal of the 'rogue state' discourse is intelligible within the same analytical framework. Obama rhetorically activated a different (yet related) tradition of political thought, which rendered the reference to 'rogue states' meaningless. But again, as with all things intersubjective, Obama's discourse is as fragile as the one which it did away with. 'Rogue' state intersubjectivity will linger in international society<sup>1</sup> as long as the liberal-republican tradition of thought lingers too.

Finally, and just to be clear, the argument as it is presented here is agnostic about the objective threats that emanate from 'rogue states'. It does assume, however, that whatever threat emanates from them cannot account for the discursive reaction they meet. Security threats surely matter but they do not suffice.

## Identity and otherness

There is a sense in which societies, domestic and international, exist by virtue of the identification of an *other*, the opposition to which shores up the societies' otherwise precarious identity. When the communist other could no longer serve this purpose because of the demise of the Soviet Union, a common argument has it, 'rogue states' were invented to serve a same or similar purpose. 'Rogue states' are the others which help define and strengthen the identity of the international community.

Identity and otherness have become a staple of constructivist theory in international relations (Zehfuss 2001). Their centrality to the approach

has two reasons at least. First, when constructivism came of age in the early 1990s, politicized cultural identity was very salient indeed – witness Samuel Huntington's infamous Foreign Affairs essay (1993), or the alleged role of identity politics in the Balkan Wars (cf. Todorova 1997) – so much so that perhaps constructivism owes its popular breakthrough to this contemporaneous world-political concern for questions of culture and identity. Second, constructivism's conceptualization of causality as constitution invites a concern for the identification of identity and otherness. Is not the *constitution* of the social an inevitable process of othering? Thus, in his seminal article 'On Causation and Constitution' Alexander Wendt distinguishes an entity's internal constitution from its social constitution. Social kinds, says Wendt, cannot adequately be described in terms of their internal constitution only. Rather, they become socially significant within a 'set of relationships with *other* social actors' (Wendt 1998: 133, emphasis added). Moreover, Wendt notes, the issue is not merely one of explanatory salience, but one of political expedience too: '[T]here are theoretical reasons to doubt that social kinds can always be reduced to their internal structures, and political reasons to worry that the effort to do so will obscure the role, and therefore responsibility, of society in making social kinds what they are' (Wendt 1998: 113). Interestingly, for our purposes, he illustrates this point with reference to the practices of 'rogue states', and the practice of certain states designating others to be 'rogues'. The internal constitution of 'rogue states' – that is, their 'rejectionist attitude' (Wendt 1998) – and the concomitant habit to break international norms, only partly explains why a state is considered a 'rogue'. However, according to Wendt, they are socially constituted too, as becomes readily evident from the observation that not all norm-breakers are labeled so. Being (perceived to be) a 'rogue state' is the outcome of certain 'representational practices of the international community' (Wendt 1998: 113), which obviously are not bereft of strategic considerations or considerations of power. 'Rogue states', then, appear (after the Cold War) as the socially constructed *other* of the international community. And as can be expected from social identity theory (Mercer 1995), relations to the 'Rogue'-as-Other are marked by hostility, which, in turn, shores up the construction of identity within the respectable core of the international community. At first glance, theorizing 'rogues' in term of identity and otherness is instrumental indeed in understanding their significance in world politics, and parsimoniously so. It subsumes the appearance of the 'rogue' as part of a familiar pattern in international politics, going back at least to the identification of an Hellenic *Us* in terms of a

Barbarian *Other* and all that this entailed with respect to the permissible use of violence (Lebow 2008).

This is parsimonious, certainly, but ultimately unsatisfying. The argument does not satisfy on theoretical grounds and neither on empirical grounds. Theoretically, the bottom-line is that analyses which assume a hostile binary are 'far too facile' (Lebow 2008: 220). The encounter with the other need not be hostile and neither need it shore up the identity of the self. Self and other might dialog instead of quarrel, as is evident from the many recorded instances of inter-civilizational dialog (Puchala 2003).<sup>2</sup> What is more, even when the self excludes the other and refuses to engage it, a minimal degree of mutual recognition is often observed. 'Although the Greeks distinguished themselves from the Barbarians or Barbaros [...] and although the concept of the Barbarian acquired a more xenophobic meaning as a consequence of the Persian wars, that term was never strong enough to extinguish their sense of the wider unity of humankind' (Linklater and Suganami 2006). And this, as noted above, is the paradigmatic example.

A theory of otherness, which has societies necessarily inventing and violently excluding enemy others, does not stand empirical scrutiny, and neither does it pass muster philosophically, as Luigi Corrias signals in his contribution to this volume. Important, in this respect, is Tzvetan Todorov's argument that there can be no *theory* of self and other, of identity and otherness, because there are no discernable empirical regularities with regard to the process (Todorov 1984). Todorov distinguishes three dimensions of the self-other relationship: knowledge, affection and action. These dimensions, Todorov insists, do not correlate in any straightforward fashion. One can be knowledgeable about, hate, but still act decently towards the other. It is unsurprising, therefore, that Todorov did not develop a theory of self and other but wrote a 'moral history' of self and other, wherein he detailed the variegated stances that Europeans took when they encountered the native inhabitants of the Americas, which he relates to, but was not determined by, the intellectual and religious backgrounds of the various Europeans.

Interestingly, a similar empirical conclusion holds for the international discourse on 'rogue states'. Here too, various stances can be discerned. Concerning 'rogue states', international society does not speak with one voice. Different states take different stances on the issue, as do different people within the same state. Many 'Old European' countries never accepted the label, at least not in official government rhetoric, and neither did many within the United States (not to speak of China and Russia). The Clinton administration, while having first adopted the

language, ultimately abandoned it. At first, the Bush administration was rather unwilling to deploy it, only to embrace it fully after 9/11. The Obama administration, finally, has shunned it until now. Disputed is not only how to deal with them, or which states actually count as 'rogues', but also if the very category of 'rogue states' is even applicable to world politics. If the 'rogue state' is an intersubjectively construed social kind, as Wendt and I would have it, then the very contentiousness of the label signals the importance of 'bounded inter-subjectivity' (Saunders 2006, Zehfuss 2001). Intersubjectivity is always fragile.

Remember also that it is not only the material interaction between self and other which influences the way self will relate to other, but also the intellectual traditions and historical memories that the various selves bring to bear on the other. With the European conquest of America, the European selves were divided over the question whether the people they encountered were actually people, with souls and such. With the 'rogue state' discourse, proper personhood is once again at stake. However, this time the debate does not pit *orthodox* Christian thought versus budding natural law,<sup>3</sup> but it is more strands of republicanism versus the liberal tradition in political thought. Improper personhood, such political embedding suggests, potentially disqualifies one for citizenship. 'Rogue states' are bad international citizens.

An analysis in terms of traditions of political thought can hence account for the *empirically observed* fragility of 'rogue state' intersubjectivity. What is more, it does not only account for the intersubjective quality of the category, but also for it being this precise category, to wit, 'rogue state' (Kustermans 2013).

### 'Rogues' as outlaws

There are plenty of descriptions in circulation to describe states that international society somehow holds in low esteem, 'rogues' probably being the central one among them. Synonyms are: 'Pariah', 'renegade' and 'outlaw states'. What is important to note is that all three descriptions imply the existence of a community, and of gradated or lost membership of this community. A pariah is a member of a low-ranking caste in Indian society. A renegade is a rebel or traitor, one who reneges on his community. An outlaw, for his part, has put himself outside the law. The Dutch word for outlaw, however, is *vogelvrijverklaard*, that is, 'outlawed'. Agency, in Dutch, lies not with the outlaw but with those who outlaw him. When society outlaws a person, it licenses the transgression of legal norms and procedures for dealing with him. When the outlaw

is tracked down, there are no holds barred. He is no longer protected by the rule of law. And here lies the crux: According to many a definition, protection by the rule of law is the central feature of citizenship (Magnette 2005). The outlaw state, on this account, would appear to have lost citizenship rights in the international community. The 'rogue state' assumes, wittingly or not, the persona of the bad citizen. From this perspective, the discourse on 'rogue states' is the natural complement of the simultaneous discourse on 'good international citizenship,' which summons states to behave responsibly in international relations (Linklater and Suganami 2006: Chapter 7). Both are metaphors and so assume somehow that states are people (Dunne 2008, Luoma-aho 2009, cf. Wendt 2004). Explicating that assumption can help elucidate the metaphor.

### Persons and citizens

'Person signifies whatever law makes it signify,' according to John Dewey (1926: 155), by which he meant that there is no essential person, that personhood is neither tied logically nor inevitably to such notions as individuality, memory, consciousness or to a stable (private) identity. The question of personhood is not one of biology, psychology or philosophical anthropology, but one of social science. *Person* is, as Marcel Mauss (1986) observed, an irreducible social category. Consider its Latin original, *persona*, 'mask'. In tribal rituals, and in ancient theatre and commedia dell'arte, human beings first became persons by wearing masks. Personhood, in these cases, is not about will-driven action, but about enactment or performance (often in dance), be it of an ancestral forerunner or of an archetypal role within a fixed script. Personhood as enactment is about the steady reproduction of society.

Moving from the theatre to the courtroom, the *personage* becomes the legal person. A legal person is a recognized rights- and duties-bearing subject of law. Notice that, in law, personhood becomes (1) standardized and individuated, (2) open to a variety of entities, including firms, trade unions, and states. Also, it appears to lose its active dimension; there is no more dancing, no more orating. However, this does not make personhood any less of a social kind. Personhood, in the legal sense, is an empty slot in principle – whatever law makes it signify – but it is inevitably reflective of power relations and becomes filled up with content that is reflective of dominant social mores. At the same time, the legal concept continues to feed on more common sense understandings of the notion, an ambiguity which is an intrinsic part



of the politics of personhood. Witness, for instance, the cunning slave in eighteenth-century America, who would argue in court that he could not be found guilty of a crime because he lacked legal personality. The counter-argument could be terribly simple: '[...] your honors [...] look at her. There she is' (Fagundes 2001: 1748).

When one moves on, from the courtroom to the public sphere, the person becomes a citizen. At its most basic, a citizen is legitimate member of, or participant in, political society. Citizenship, like personhood, is a communally defined public identity. It too is a social category, which, if anything, is more explicitly political than the concept of personhood is. Strategic considerations often inform the granting the citizenship, much as they do the recognition of personhood. But whereas the category of personhood becomes substantiated in terms of social mores, which can vary in innumerable ways, the category of citizenship is more circumscribed. Roughly, that is, two traditions of thinking and acting out citizenship exist: liberal and republican.

### **Ideological variety**

There is a huge debate raging across a wide range of disciplines, including political theory, historical sociology, history of ideas, and recently, international relations, concerning the difference between liberalism and republicanism. Many interpret (the rediscovery of) republicanism to be an alternative to liberalism, largely incommensurable with it. In this view, they are different paradigms. Others point out that liberalism and republicanism have been wedded together in historical practice; that many have tried to forge a synthesis and that eighteenth-century scholarship largely achieved it (Kalyvas and Katznelson 2008). Rather than adjudicate the discussion, I prefer to sidestep it by treating them as ideological ideal-types. Ideal-types are never reflected in one-on-one in empirical reality. On the contrary, one expects empirical reality to consist of a messy mix of ideal-types. Syntheses and messiness are to be expected. And at the same time, the analytical recovery of the ideal-types is expected to assist in coming to terms with precisely that messiness.

Liberalism and republicanism differ as follows in their conception of citizenship, and more broadly of politics. While the republican understanding interprets citizenship as a 'burden proudly assumed,' the liberal conception considers it more as 'a set of rights passively enjoyed.' (Walzer 1989: 216) The former considers the citizen to be a 'primarily political [thus public] actor', the latter a citizen's business as primarily private (Walzer 1989: 216). Logically and historically, they are

associated with different types of community: republican citizenship is only possible in a community that is 'a closely knit body of citizens', while liberal citizenship can exist in 'diverse and loosely connected' ways (Walzer 1989: 216). What is more, the republican community takes precedence over the republican citizen – the whole taking precedence to the parts (Onuf 1998); its maintenance a primary duty. After all, citizens owe their very existence and dignity to the community; hence the republican concern for the common good. 'Human association comes first. In the absence of association [...], there is no agency and there can be no agents'(Onuf 1998: 5). A community of liberal citizens, on the other hand, is to a certain extent a community denying itself. It breeds, or personates, atomist individuals so that politics becomes a matter of contractual relations; contractual relations which can moreover be relinquished when it is advantageous to do so. Notice, though, that the liberal citizen and the liberal society are as much the result of person-community co-constitution as are their republican counterparts. The difference is, however, that republicanism recognizes and even thematizes this process, whereas liberalism ignores it.

With respect to the concepts of personhood and citizenship, it would seem that liberalism accepts personhood to be more of an empty slot than does republicanism. Applied to the state (in its international capacity), this entails that a political entity is recognized as a full member or citizen of the international community, as soon as it fulfills all formal or material conditions of statehood, stipulated in the Montevideo Convention of 1933. These include permanent population, a defined territory, a functioning government and independence. If these criteria are met, a state is recognized as a state and it gains sovereignty, or freedom. It will be free from interference in its internal affairs. External acts that impede another state's sovereignty (for example, conquest) can be expected to be countered though. Republican processes of personation are more demanding. First, the community is typically seen as bounded. Second, membership in the community is conditioned on meeting a specified standard of morality or 'civilization'. It takes character. Third, membership in the community, in the republic, implies a certain duty toward the community; at a minimum concern, and care, for the common good, but equally a duty to fight or even die for it (Walzer 1989: Chapter 4). The citizen is a citizen-soldier. One becomes a person – a person worthy the name of person – only if one meets these criteria.

To be added to this list of characteristics of liberalism and republicanism respectively is a final one. Each ideology of citizenship has a distinct set of normativized emotions and a normativized psychology. Actors

operating on liberal assumptions expect that they and their interlocutors will interact on the basis of their self-interest, and expect orderly relations to ensue from each pursuing his self-interest. The appetites are foregrounded as important psychological drivers. Republicans, for their part, explicitly premise egalitarian interaction on recognition, and recognition on some understanding of virtue, be it *vertu morale*, *vertu chrétienne* or *vertu politique* (Montesquieu in Pocock 1981: 358); a concern for moral virtue informs romantic republicanism, a concern for political virtue civic republicanism. In republicanism, the spirit is foregrounded as an important psychological driver. Notice that these drivers are labeled psychological with (qualified) reason: Republican actors do not pursue honor at all costs, but genuinely desire to be honorable (Lebow 2008).

Kalyvas and Katznelson articulate a widespread consensus when observing the end of republicanism as a 'freestanding model' in modernity (2008: 5). Nicholas Onuf has similarly noted that 'taken as a whole' republicanism is 'virtually incomprehensible to us' (Onuf 1998: 8). And yet it lingers in modern (international) politics. A first way in which the discourse of virtues remains relevant is as the expression of a certain generalized dissatisfaction with liberal modernity. Liberalism and interest-based interaction is often experienced as alienating, and antithetical to what it means to be fully human. In reaction, a return to more communal ways of organizing politics is promoted. A second way in which the virtues remain relevant is in a transformed form. In the nineteenth century, the tension between economic intercourse and virtue was resolved by reinterpreting the economy as a realm in which the virtues could be practiced. Economic interchange was theorized to be more than the strategic pursuit of one's interests, but also, and more importantly, an activity which contributed to the 'refinement of manners' (Pocock 1981: 367). Virtue, in other words, was redefined. The issue was no longer (exclusively) what one did (rights/interests), nor what one was (virtue) but how one did it (manners).<sup>4</sup> Etiquette mattered. The causal argument was that participation in commercial activity would improve style, or manners. Virtue so redefined, republicanism became liberalized and liberalism became republicanized. A commercial, or liberal republicanism was invented. Adam Smith was seminal in developing this alternative strand. He wanted to preserve the republican concern for the spirit and honor, but realized that it could only be maintained if it was adapted to modern conditions (Kalyvas and Katznelson 2008: 50). The market was to be no by-product of intercourse, but an imagined community with ethical significance. In such

community, refinement of manners would stand as a mark of virtue, and a relatively sure sign of ethical worth.

### Manners and 'rogues'

How does the above pertain to an analysis of 'rogue states'? Consider, with this question in mind, Walter Block's (2008 [1961]) 'rogues' gallery':<sup>5</sup>

the prostitute, the pimp, the male chauvinist pig, the drug pusher, the drug addict, the blackmailer, the slanderer and libeler, the denier of academic freedom, the advertiser, the person who yells fire in a crowded theatre, the Gypsy cab driver, the ticket scalper, the dishonest cop, the counterfeiter, the miser, the inheritor, the moneylender, the noncontributor to charity, the curmudgeon, the slumlord, the ghetto merchant, the speculator, the importer, the middleman, the profiteer, the stripminer, the litterer, the wastemakers, the fat capitalist pig-employer, the scab, the rate buster, the employer of child labor.

Judging from Block's list, there is something indeterminate about being a 'rogue'. While every entity on the list can be said to have certain shortcomings, it is less clear if they actually share a flaw. It is not even sure if all of them even break the law: Being a curmudgeon or an importer is hardly illegal. As a result, a 'rogue' is something different from a law-breaker (a 'rogue state' something connotatively different from an 'outlaw state'). Criminals can be 'rogues', but they need not be so, nor need 'rogues' be criminals. What the Gypsy cab driver, the slumlord, and the pimp do share, however, is that they have a certain general offensiveness about them.

Recent empirical research into the deployment of the concept of the 'rogue state' in U.S. foreign-policy discourse reaches a surprisingly similar conclusion. While a fairly strict definition can be retrieved, associating 'rogue states' with *illegal behavior* (*sponsoring* terrorism, *seeking* weapons of mass destruction, *maltreating* their own population), this *technical* definition does not capture what a 'rogue state' is imagined to be (O'Reilly 2007). The research shows how the American discourse on 'rogue states', with data collected from 1993 to 2004, had achieved a steady presence in public statements in spite of having been temporally renounced by the Clinton administration. O'Reilly's analysis also shows how the 'rogue state' shows itself as a multifaceted discursive construct. First conceived in defense circles, 'rogue states' were originally presented as a tangible, albeit future, security threat. More specifically, they

were a threat because of their desire to acquire dangerous weapons of mass destruction. This way of constructing the 'rogue state' could easily be explained in terms of an institutional desire to fill up the gap left by the demise of the Soviet Union, and related, as a way to find continued support for the development of new weapons programs (Klare 1995:Chapter1). The explanation is embedded in a theory of institutional interests, shaped by an institutional identity, and which is, in turn, shored up by the construction of a new hostile binary. However, soon after its invention by agents within the defense community, the understanding of what 'rogue state' is, changes due to it being adopted by more straightforward political and also diplomatic actors, be they actual diplomats, representatives of the State Department, Secretaries of State, or members of the Presidential entourage. These people focus more on 'rogue state' dysfunctionality as a sign of, or as resulting from, a certain cultural degeneracy. The problems lies not primarily with the physical threat that emanates from 'rogue states', but with 'rogue states'' renunciation of the international community's internal and external standard of civilization and the international rule of law. This becomes very apparent with respect to, what O'Reilly calls, secondary 'rogue states': China, Cuba, Burma, Zimbabwe, Pakistan (as opposed to 'paradigmatic rogues' [see Malici and Walker in this volume] like Iraq, Iran, North Korea, Libya) '[...] these secondary states have earned the label of "rogue" not so much for the fact that they present threats due to overt power capabilities, but rather due to the fact that they are perceived as nondemocratic often portrayed as totalitarian or authoritarian regimes' (O'Reilly 2007: 305–306).

These empirical observations are not compatible with a unitary analysis in terms of international society's or the American other, neither are they easy to square with a singularly liberal analysis of international intercourse. States' behavior is not analyzed in terms of their pursuing their national interest, which would likely render 'rogue state' behavior intelligible and manageable (Mearsheimer and Walt 2003). Nor are states conceived as atomist individuals. Rather, states are depicted as community members: states as citizens of an international community, their subjects as citizens of a world community. This community is moreover not conceived in strictly political terms, but in a combination of political and ethical terms. What transpires from this discourse, then, is the lingering presence of a republican legacy in international society, and among U.S. foreign-policy elites. International republicanism appears to be partly civic, but definitely also romantic: democracy as the virtuous practice of international citizenship has a distinctively moral

ring to it. And romantic republicans possibly have a duty to fight for it, that is, in order to redeem the international and world community.

However, analyzing 'rogue states' as cultural degenerates, or interpreting their being identified as the resuscitation of a (romantic) republican legacy, only takes one so far. The problem is, again, that it cannot account for significant empirical variance: there are states which are not democracies, or generally embody a different political value set, and yet are not explicitly considered 'rogues'. Consider Turkmenistan, Uzbekistan, Egypt (before and after the revolution), Democratic Republic Congo, Cameroon, Guatemala. Failed states some of these may be, and undemocratic probably all of them, but 'rogue states' they are not. An important clue as to why certain non-democracies are considered 'rogues' and others not is to be found in O'Reilly's dataset, although he does not flag it himself. Upon closer inspection of his data, it turns out that the notion of cultural degeneracy takes two distinct meanings. On the one hand, it refers to the renunciation of certain substantive values of civilization, which can be summed up as 'democracy' and 'human rights'. On the other, cultural degeneracy refers to a certain lack of civility or restraint. 'Rogue states' are charged with being 'reckless and rash', for 'breaking promises', for '*randomly* attacking' (O'Reilly 2007: 314). The real problem, it appears, is not that 'rogue states' attack, but that they do so randomly. Remember, in this respect, that Hedley Bull saw *reason* to theorize 'war' as a stabilizing institution of international society (Bull 1995), and keeping promises as indispensable in upholding order. The problem is not solely one of substantive values or substantive moral character, but equally one of manners, of form that is. 'Rogue states' are offensive to polite company. They irritate the senses. Put in other words still, it appears that the problem with 'rogue states' is not their irrationality, but, at a more fundamental level, their unreasonableness (Strauss 2000). Or, so it is experienced. States can practice realism, or even realpolitik, but preferably a 'realism with manners' (Sharp 2003: 860). Less appreciated is, for example, the North Korean leadership 'hurling unusually personal criticism' at the American President, or Iranian President Ahmadinejad hijacking Channel 4's alternative Christmas message with anti-Semitic slander (Kessler 2004). Compare also the disputes at the anti-racism Durban review conference. A general appreciation (in the West) was that the review conference had 'sadly' been 'hijacked by radicals' like 'Iran, Libya and Cuba' (Lambsdorff 2009). As a result, the United States and Canada boycotted the conference, and many European representatives left the conference room when Ahmadinejad was delivering what they considered a distasteful speech.

Note, though, that the problem is not only one of clashing value systems, or (benevolently put) one of conflicting interpretations of the same value system. Western political thought has sufficient intellectual tools at its disposal to engage the co-existence of a plurality of values, be it in the form of various theories of multiculturalism, or, in international relations, in the form of the theory of sovereignty (Inayatullah and Blaney 2004). In principle, debate is possible, a fierce debate, if necessary. What is not tolerated, however (if Pocock's identification of the prevalence of the discourse of manners remains astute), is a debate that is waged in too ruthless or aggressive a tone. Civility, perhaps more so than civic or moral virtue, is quintessential to recognition as a good citizen. If a clash of civilizations is animating world politics, it is no *Kampf der Kulturen*, but a clash of civilities, of civilization indeed (Goudsblom 2006).

These observations do not render international society's insistence on the importance of democracy for international security hypocritical per se. There is one important reason why this is so. The reason is that democracy is probably both regarded as an intrinsic moral value, and as, in fact, an estimate of a country's progress in terms of the civilizing process, as well as the driver for a continuation of further civilizing processes. The idea of democracy has a formal, a legal and an institutional dimension to it, to be sure, but it has a cultural dimension as well, which is well-captured in the notion of 'manners'. Doing democracy is (often thought to be) the political expression of a civilizing process and doing diplomacy diplomatically its international expression (Björk 2005, Linklater 2005, Mennell 2009, Sharp 2003).

### 'Rogues' no more

Shortly after its assumption of executive power, the Obama administration announced a major shift of policy toward so-called 'rogue states'. 'Rogues' would be 'rogues' no more, but became states of concern again. In this discursive move, it paralleled the second Clinton administration, with that difference that the first Clinton administration had actually introduced the category of 'rogue' (and backlash) states into official U.S. foreign-policy discourse in the first place, and had even intensified its use during Clinton's second term. Various explanations can be imagined. In this section, I shortly review these different possible explanations and flag their shortcomings. As an alternative, I propose to read the decline of the discourse of international 'roguary' as a sign of the temporary prevalence of a liberal understanding of international

citizenship and of the dynamics of international society; temporary because Western modernity, including the United States' variant, has an ambiguous attitude toward liberalism unbound.

### **Alternative explanations**

A first explanation of the demise of the 'rogue state' has been identified by Jacques Derrida. In 2005, four years before Obama was elected, he predicted that soon there would be no longer any 'rogues'. Derrida's main argument is that the idea of a nation-state is quickly losing its world-historical relevance, so that 'rogue states' will also soon be judged to matter less and less (Derrida 2005). True or not, it is unlikely that this kind of grand historical consideration is informing the political leader of a sovereign state when dealing with another sovereign state. Derrida dismisses a game that political leaders cling on to. But the waning of the 'rogue', as it is defined in this chapter, takes place within that game. As a result, its explanation should also be identified within it. Derrida's explanation is philosophical, mine social-scientific, so that different criteria of validity apply.

A second possible explanation would refer to shifting interests. A case can be made that the original identification of particular states as 'rogues' was informed by geo-political or geo-economic considerations. This interpretation can easily account for the seemingly selective nature of the identification of 'rogues': Interests are relational, and specific to a particular dyad. However, the explanation cannot account for the different ways in which 'rogue states' were securitized, as, alternatively, aggressive, degenerate, and ill-mannered (cf. Wagner, this volume). Also, exactly because it is a relational and dyadic argument, it cannot explain why the Obama administration dismissed the label across the board. Obama's point was not that, for example, Iran was no longer a 'rogue', but, in general, that there would be 'rogues' no more. What is more, in his line of thought, there had probably never been 'rogues' anyway.

The theory of the other, discussed above, suggests yet another possible explanation. 'Rogues' will wane, the argument goes, if new, and more convincing, Others rise to prominence. China, and the security threat that emanates from it, is a likely candidate. Attempts to other or securitize China can indeed be observed, but this process remains marginal. Othering China has not gained traction, neither among the public, nor among decision-making elites. While perhaps technically a 'rogue' (possessing WMD, being undemocratic), it is rarely labeled so. The reason could well be that, after Mao's death at least, China has shown itself to be



generally well-mannered in the international forum. China is a hard bargainer, to be sure, but it does not scream and shout. Neither considered a 'rogue', nor unequivocally designated a security threat, nor actually othered, the rise of China cannot explain the demise of the rogue.

It is possible, by contrast, to understand the disappearance of the category of the 'rogue' as a sign of the temporary prevalence of a liberal discourse of international politics and citizenship, which lined the United States government up again with its old European allies. Liberalism presumes the continuous possibility of reasoned conversation, or if that fails, the universal validity of logic of carrots and sticks, since it assumes that all actors always operate on the basis of their self-interest. Actors need not be good, but merely rational, which, by liberal default, they are assumed to be. In the context of this chapter, I do not care too much about the veracity of these assumptions, but about their being operative. The next section traces the liberal assumptions of Obama's international discourse.

### Obama, liberalism and 'rogues' no more

I know that engagement with repressive regimes lacks the satisfying purity of indignation.

(Obama 2009b)

Rob Walker has famously made the argument that the realist theory of international relations is actually liberal theory: it sings into existence the international condition of possibility for a liberal society to develop domestically (Walker 1993). An international picture of anarchy, war and repetition sustains a domestic picture of orderliness, peace and progress: realism on the outside, liberalism on the inside. Considering Obama's professed outlook on foreign policy, he seems to be re-writing Walker's reading of the international into one of *republicanism on the inside, liberalism on the outside*.

Even though Obama appeared to be primarily a domestic president in his first year in office, a view that was reinforced in his first State of the Union address to the American Congress, this is neither due to a lack of interest in international politics, nor to a lack of ideas on the subject. Thus, at the very beginning of his presidency, he articulated unambiguous positions on several foreign-policy issues, most famously the closure of Guantanamo Bay and the planned withdrawal of American troops from Iraq. Similarly, President Obama has been described as a 'conceptual initiator [...] representing a strategically and historically coherent worldview' (Brzezinski 2009) and as 'offering the most sweeping liberal

foreign-policy critique' (Ackerman 2008). It is unclear if action follows rhetoric, if hope translates into audacity (Brzezinski 2009), but this is less important in our context. First, action is always enabled and constrained by structure. If some of Obama's foreign policies have become bogged down, it is consequently not self-evident that this is due to a flawed worldview or to a lack of diplomatic skill. Note, second, that if diplomacy is to have autonomous value (and an autonomous meaning), words should not be treated as being fundamentally different from deeds. They are speech acts. And note, finally, that this chapter has an intra-discursive focus so that, for its purpose, the perhaps flimsy relationship to practice is less damaging.

Regarding the substance of his international discourse, Spencer Ackerman is broadly correct in arguing that Obama conceptualizes foreign policy in liberal terms, and thus also America's and the international community's relationship with 'rogues'. This liberal view of international politics contrasts in an interesting way with Obama's civic republican understanding of the domestic American polity, which he in many ways identifies with its people. It is a polis, as is evidenced most eloquently in his inaugural speech of January 20, 2009 (Obama 2009a):

What is required of us now is a new era of responsibility – a recognition, on the part of every American, that we have duties to ourselves, our nation and the world; duties that we do not grudgingly accept but rather seize gladly, firm in the knowledge that there is nothing so satisfying to the spirit, so defining of our character, than giving our all to a difficult task. This is the price and the promise of citizenship.

Observe that earlier in that same speech, Obama had identified those 'brave Americans [...] patrolling far-off deserts [as] embodying the spirit of service'. In this observation, his domestic republicanism apparently spills over into the international realm, as happens equally when Iran is summoned to assume 'its rightful place in the community of nations', while signaling that this 'right [...] comes with real responsibilities'<sup>6</sup>. But if there is a trace of republicanism in Obama's international outlook, it is of a civic kind, and never evolves into its romantic variant. Also, it is largely overshadowed by the liberal elements in his discourse.

Consider the following quote from Obama's Nobel Peace Prize speech, which clearly illustrates the relevance of liberalism for understanding Obama's strategy toward 'rogue states':

In dealing with those nations that break rules and laws, I believe that we must develop alternatives to violence that are tough enough to

change behavior – for if we want a lasting peace, then the words of the international community must mean something. Those regimes that break the rules must be held accountable. Sanctions must exact a real price. Intransigence must be met with increased pressure – and such pressure exists only when the world stands together as one.

(Obama 2009b)

The key to this passage lies not in its reference to the international community, or to 'the world standing together as one', but in its focus on behavior. At stake in international politics is behavior, not moral virtue as an inherent disposition, let alone an ontology of evil. States can break positive law by acting, they cannot break natural law simply by being (cf. Reus-Smit 1999). What is more, in instances of bad behavior, diplomacy comes first, sanctions second.

In dealing with states of concern, the game is one of interests, and diplomacy its preferred currency. A firm belief in the force of the better argument, and in communication as a means to determine the better argument, is adopted as the default belief. The secondary option of imposing sanctions stays within the tradition since it assumes that actors – 'rogues' no less than other – can be enticed to change behavior via the application of sanctions. They are rational.

While valid as an explanation, none of this is very original of course. The liberal foundations of Obama's attitude toward states of concern, and foreign policy more generally, do become significant and worth mentioning in confrontation with romantic-republican and liberal-republican concerns. Throughout, these concerns are re-interpreted and deflected. Remember, first, that states are considered 'of concern' because of their role in nuclear proliferation only. But as we argued above, the 'rogue state' had less determinate features as well. Thus, from a romantic-republican perspective, they were seen to be lacking *democracy* as moral virtue, and from a liberal-republican perspective, they were seen to be lacking *manners*. 'Rogues' are *offensive*. How does Obama, and perhaps more generally liberalism, deal with these issues? Consider first the question of democracy.

There is one dominant theme that drives Obama's discourse on foreign policy: a desire to 'respect the dignity of all human beings' (Obama 2009c). A result of this particular concern is that – intellectually at least – he does not prioritize traditional high security politics, but consistently links security to economic development and to the challenge posed by a deteriorating environment and a changing climate. Dignity is not seen as public dignity in the polis, but is an individualized dignity, which is endangered in conditions of physical deprivation. It is about people not

being hungry, and about people being able to shelter from the storm. It is about upgrading refugee camps, 'filling stomachs, alleviating malaria, and about protecting neighborhoods from marauding bands of militia-men' (Ackerman 2008, Obama 2009b). The goal of *dignity promotion* is not to foster virtuous republican state citizens, but to secure the physical health and safety of individual human beings.

As a result, democracy presents itself internationally not as a value in itself but as an instrument, and one of secondary importance at that. A democratic and functioning state is optimal, but the latter element has priority over the former. What this view on democracy promotion does, is to separate human rights from democracy, and to foreground social and economic human rights as opposed to political rights. The latter are not dismissed but made instrumental to the goal of dignity promotion (Obama 2007). Socialist according to some, in contrast with the republican image, it shows itself a very liberal conception indeed. From this liberal perspective, 'failed states' pose the gravest security threat, and 'rogue states' (as cultural degenerates) much less so. Montevideo is the yardstick on issues of security. Cultural degeneracy does not factor into the security calculus.

Whereas Obama re-interprets the romantic republican concern for democratic virtue along strictly liberal lines, he downplays the significance of the liberal-republican identification of ill-mannered diplomats. He does so by invoking the greatness of Islamic and Persian civilizations, and by acknowledging the cultural and historical sensitivities of Latin American states. In the first case, he minimizes the rough edges of (Iranian) diplomatic behavior by embedding these mishaps within a broader story of greatness and refinement. Islam is no culture of blood, but a civilization of outstanding philosophy, poetry and arts, which has, moreover, contributed vastly to the development of Western civilization. If we are increasingly refined, it is at least in part due to the contribution of Islam, thus Obama (Brzezinski 2009). In the second case, bad manners are partly excused with reference to the bad environment in which Latin American leaders grew up, where it is to be understood that this environment is a global one, its history one of colonialism and imperialism. Impolite Cuban or Venezuelan rhetoric is expressive of 'cultural and historical sensitivities,' (Brzezinski 2009) and, as a result, intelligible and excusable, if not actually permissible. Given Obama's oratorical skill, it is not a little ironic that Latin American staunchly anti-American rhetoric is set aside so easily.

'Rogues' are 'rogues' no more, but have become states of concern again. They concern us because of their behavior as nuclear proliferators.

In foreign countries, democracy is valuable no doubt, but mainly as an instrument to promote human dignity, not as an intrinsic moral value (and neither is it an inherent disposition). Human dignity, for its part, is possible only in a safe and healthy environment. At the same, a safe and healthy environment suffices for life to be dignified. Public speaking and acting (as citizens did in the polis) is not a necessary feature of a dignified life. Ill-mannered diplomacy might be irritating, but it should not blind us to the other's historical greatness, nor to the other's basic interest-driven calculations. Thus liberalism effectuates the transformation of 'rogues' into states of concern. 'Rogues' (as states of concerns) are persons no less than other states; and as persons, they are liberal actors to be sure.

## Conclusion

Traditions of political thought shape international interaction. One way in which they do so is by personating people and states differently. People, and states-as-people, are fundamentally different creatures in liberalism, civic and romantic republicanism, and liberal republicanism respectively. That is, these ideologies articulate a fundamentally different conception of what people are, or what they should be *as citizens*. This feature of ideology comes out very clearly in the international and domestic American debate on the category of the 'rogue' in international society.

In the first section of this chapter, I have demonstrated why a formal theory of identity and otherness cannot adequately account for the appearance, substance, and empirical particularities of the discourse of 'rogue states' in international relations. In the second section, I have therefore introduced a different theoretical approach, which interprets 'rogue state' discourse in light of the simultaneous discourse on international citizenship, and interprets both as embedded in a tradition of political thought – liberal republicanism – which stresses the politico-ethical importance of good manners. 'Rogue states' display bad manners, and this we take offense to. In the third and final section, I have seized on the inherent fragility of all things inter-subjective in order to explain the disappearance of the 'rogue' from Obama's international discourse. Obama has re-casted international citizenship in strictly liberal terms, so that 'rogue states' became re-defined into states of concern. From a liberal perspective, the problem of 'rogue states' is their behavior only, specifically their willingness to proliferate weapons of mass destruction. Cultural degeneracy or a lack

of diplomatic sophistication are not politicized, let alone securitized. Moreover, even their proliferating behavior does not disqualify the possibility of diplomacy. From a liberal perspective, proliferators are not so mad as to be impervious to sanctions. Liberalism cannot but conceive liberal actors, and liberal actors are rational actors. They preferably deliberate, always calculate means and ends, enjoy carrots, and fear sticks. That is what people are like, according to the liberal, supposed 'rogues' no less than liberals themselves.

## Notes

1. Throughout the text *international society* refers to the analytical model which assumes that international politics unfolds in a socially constituted, rule-infused environment, while *international community* will figure as a term of political discourse. On this distinction, rogue states exist as a category in international society, and the category is included in a wider international discourse which also includes the concept of international community. For a similar use of both concepts, compare Aalberts (2011).
2. The empirical observation of inter-civilization dialog matters greatly because religious and civilizational identities are often assumed to be exceptionally prone to processes of hostile binarization. Compare Maalouf (2003).
3. A debate literally acted out during the Controversy of Valladolid of 1550–1551. In 1992, a French play and film – *Le Controverse de Valladolid* – were produced, staged and broadcast.
4. It would be interesting to map Bernd Bücher's analysis of the nineteenth-century standard of legitimacy against my reading of cultural and intellectual developments. It appears that originally democracy was coded as unmannered and rowdy, whereas today certain kinds of non-democracies are culturally coded in this way.
5. Block is an economist and anarchist philosopher and the argument of his book is to show that rogues are rendering beneficial services to society. They are not really rogues in his view.
6. Videotaped remarks by the president in celebration of Nowruz (White House 2009).

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# 3

## Guises of Sovereignty: 'Rogue States' and Democratic States in the International Legal Order

*Luigi Corrias*

### **Introduction**

What constitutes a 'rogue state'? And what does this say about the nature of the international society of states? These two questions will be central to this chapter which will investigate the phenomenon of 'rogue states' from a philosophical point of view. I will argue that what is finally at stake in the notion of 'rogue states' is the international order as an order of sovereign states. While sovereign states are presumed to be equal to each other (not so much factually but at least from the viewpoint of public international law), 'rogue states' have considerably fewer rights than 'decent' states. It is interesting to note that, in the final analysis, the reason for this lies in the internal organization and practice of a 'rogue state'. This means that the external sovereignty of 'rogue states' is questioned by the way in which their internal sovereignty is exercised. This brings us back to the work of Immanuel Kant. For it is Kant who, in his *Toward Perpetual Peace*, has gone furthest in thinking through the notion of sovereignty in international relations (Kant 2006 [1795]-b). Interestingly, already in this work, he posed demands for the internal organization of states before allowing them to be parties to the international peace treaty. In this way, Kant planted the seed for the idea central to the emergence of the notion of a 'rogue state': not all sovereign states are equal, and their (formal) equality is dependent on the way in which they are organized internally.

John Rawls has followed this line of thought and made a distinction between decent peoples and non-decent peoples (2001 [1999]). It might seem as if this would transform 'rogue states' into the other of the decent part of the international community. Yet, I doubt whether otherness is the philosophical category that most adequately catches what is

at play in the notion of a 'rogue state'. One must not forget the peculiar way in which 'rogue states' manifest themselves. They are included and excluded at the very same time; they appear in the twilight of the international legal order. These characteristics point to strangeness rather than to otherness.<sup>1</sup>

Taking my cue from the work of Bernhard Waldenfels (2006, 2007), I will argue that one should make a distinction between these two notions. At stake are other kinds of differentiations: '[s]ome differences are made from a neutral and overriding point of view (a *tertium-comparationis*). Others, however, are made from the vantage point of one of the poles that are distinguished' (Roermund 2006: 334).<sup>2</sup> Whereas we can differentiate between tables and chairs as different types of furniture, the distinction between inside and outside is always made from one pole (inside) and through an act of self-inclusion. As I will argue further on, something similar can be said about the distinction between decent and non-decent (or 'rogue') states. As a result, one should distinguish between foreignness on the one hand and strangeness or alienness on the other hand (Roermund 2006: 335). While the foreign is merely 'in the wrong place', the alien is 'outside our categories in spite of the fact that it is clearly there, thus questioning the order we deem vital for living a decent (or a better) human life' (Roermund 2006: 335). Consequently, I will later show in what ways the 'rogue state', as a type of stranger or alien, questions the international legal order.

Accordingly, I shall pursue the following path in order to illuminate the concept of 'rogue states'. In the second section, I will investigate what the recent use of the term 'rogue states' tells us about the meaning of the concept. Then, in the third section, I will delve deeper into the philosophical problem at the heart of the discourse on 'rogue states'. I shall argue that 'rogue states' point to the issue of sovereignty in international law and the nature of the international legal order. In the fourth section, I will investigate to what extent the main elements of this view can already be found in the work of Kant and in Rawls' recent reinterpretation of the Kantian project. In the fifth section, I will focus more specifically on the institution of international order *as order*. A phenomenology of order will help to understand the inclusion and exclusion at work in the discourse on 'rogue states' and, most importantly, why 'rogues' should be understood through the concept of strangeness or alienness, rather than simply otherness, and what this entails. Therefore, this phenomenology emphasizes the constructed nature of order, thus tying in with an important hypothesis in the Introduction to this volume: the constructed nature of 'rogue states'.

## In search of the 'rogue': recent use of the 'rogue state' concept

Taken in a broad sense, 'rogue states' are a phenomenon with a very long history in international relations.<sup>3</sup> However, for the purposes of this section I would like to concentrate on the use of the term by the U.S. administrations in the last decades. Although we might associate the notion mostly with George W. Bush's war on terror, the notion can be traced at least as far back as a list of countries supporting terrorism issued by the Reagan administration (Litwak 2000). In the 1970s, Israel, South Africa, South Korea and Taiwan were described as 'pariah states' because they sought nuclear weapons or, in the case of South Africa, because it violated international core norms against racial discrimination (Saunders 2006). Also, the Clinton administration used the term widely (O'Reilly 2007). Yet, the 'rogue state' discourse gained momentum after the end of the Cold War and reached its zenith with the use of the term by the administration of George W. Bush.

In the academic literature there is a certain consensus about what constitutes a 'rogue state'. In the words of Alexandra Homolar (2011: 710):

The U.S. concept of rogue states, which depicts distant "Third World" countries as the greatest threat to peace and stability since the end of the Cold War, can be broken down into three primary components. First, rogue states violate international human right norms with respect to their own populations. Second, rogue states are perceived to exhibit willingness either to directly engage in or to sponsor terrorism. Finally, rogue states seek to acquire weapons of mass destruction, as well as the means to deliver them across state border.

Notwithstanding this agreement on the main outlines, authors differ in the way in which they further conceptualize the notion of a 'rogue state'. This has to do with, among other things, deeper issues of an epistemological nature.<sup>4</sup>

Isobel Roele argues that even though the Obama administration has discarded the term 'rogue states' from its official discourse, it is not that easy to bid farewell to the concept (Roele 2012). Taking her cue from a number of existing definitions, Roele explains that 'rogue states are identified by their Otherness: not only do they not share the values or identity of "normal" states, but they violently oppose them. [...] The rogue state is a sort of public enemy: it does not offer an alternative sort of order, but only disorder' (Roele 2012: 562). Roele is well aware of the

logic of inclusion and exclusion that is at work in such an understanding of 'rogues': 'By casting a state as Other, states that view themselves as members of the international community do not identify with it and are therefore less likely to object to the undermining of the rogue state's sovereignty' (Roele 2012: 563). Following Derrida, she argues that the 'rogue state' is both included and excluded and that the importance of 'rogue states' lies in their internal relationship to the (international) community: 'far from being a disruptive element, the rogue state can have quite the opposite effect; as the Other, it provides a negative point of reference that builds both community identity and agreement' (Roele 2012: 564).

Accordingly, 'rogue states' perform the same role in the international community as criminals in a national community. 'Rogue states' are thus, Roele tells us, criminal states. Furthermore, she stresses that the designation of 'rogues' is only possible because the international community is composed of unequal sovereigns (Roele 2012: 565). She uses this notion in the sense of Gerry Simpson, who argued that '[t]he Great Powers often identify or define the norms that place certain states in a separate normative universe and there is an identifiable connection between the propensity of the Great Powers to intervene on behalf of the international community and the labeling as outlaws some of those states subject to intervention' (Simpson 2004: 6). Like Derrida, Roele sees in the composition of the UN Security Council empirical evidence of the existence of unequal sovereigns. 'Rogue states' then form an outside of 'an otherwise "all-embracing" international community of states as a whole' (Roele 2012: 567). As criminals, 'rogues' are prone to be punished by the international community because they have breached obligations to the whole community (cf. Wagner in this volume).

There are some problems with Roele's conceptualization of 'rogues' as criminal states. First of all, the notion of criminality presupposes that there are appropriate constitutive rules which are transgressed. Now, the whole problem with the notion of 'rogue states' is that such rules seem to be absent in international law (cf. Werner in this volume). As a consequence, it is better not to think of 'rogue states' as criminal states, or at least to make a distinction between states that violate a norm of international law and states that are generally believed to be unredeemable. 'Rogue states' belong to this second category. Finally, while it might be true that reactions to 'rogue states' actually strengthen core norms of international law, this does not preclude 'rogue states' from questioning these very same norms. I will come back to this at a later stage. Let us first look at some other conceptualizations of 'rogues'.

Alexandra Homolar discusses the ‘rogue states’ narrative within the broader framework of the security policy of the United States. She recalls how former President George W. Bush in his 2002 Union Address explicitly paid attention to such countries as Iran, Iraq and North Korea. These three countries were said to form an ‘axis of evil’. This focus was surprising, to say the least. Here we have the president of the most powerful country on earth declaring his special attention to countries that form an alleged security threat to the American society while they are by far militarily inferior to the United States. Homolar argues that one can only understand this peculiarity by taking into account the important role played by the security narrative. One could describe a security narrative as a coherent interpretation of a series of events by the relevant actors imbuing them with a certain meaning. Security narratives ‘help to establish a discursive connection between the articulation of a country’s national interests, the identification of specific security threats to those interests and how potential risks to the broader international environment are understood’ (Homolar 2011: 706).

This implies that they perform an important function in the legitimization of a certain policy. Homolar argues that so-called catalytic events play a crucial role in the formation of security narratives because they may ‘enable the integration of ideas that existed within a narrow policy community *prior* to the event into the wider public debate and political agenda through fostering security narrative development and amplifying existing perceptions of security risks’ (Homolar 2011: 708). She holds that the end of the Cold War constituted a catalytic event producing a systemic shock and uncertainty. In this climate of uncertainty, the ‘rogue states’ narrative was born (Homolar 2011: 710). Homolar stresses that what ultimately makes these regimes ‘irrational’ is their behavior towards their own populations, not their international actions.<sup>5</sup> It seems as if the rogue’s irrationality in the international arena is seen as an expression of its irrationality in internal affairs. I will later come back to this interesting feature.

Martin Beck and Johannes Gerschewski argue that we should conceive of ‘rogue states’ as entities on the outskirts of the international community. Similarly to Roelle, they see them as simultaneously included and excluded (Beck and Gerschewski 2009). Labeling a country a ‘rogue state’ is aimed at delegitimizing the designated state. When it comes to the question which states are described as ‘rogues’, Beck and Gerschewski first point to the list of states sponsoring terrorism already mentioned above. Also, they emphasize that ‘the term “rogue state” – in its original sense – referred to repressive internal behavior by a state’

(Beck and Gerschewski 2009: 85). Only later, the other element (a possible security threat to the international community due to the possession of weapons of mass destruction) was added.

Yet, this two-pronged definition has two important exceptions:

Firstly, some actors such as Cuba and Burma/Myanmar have been selected as “rogues” although they are not at the forefront of actors attempting to acquire a strong arsenal of WMD. Secondly, there are some countries that meet both criteria of “rogue states” without having been targeted as such. Pakistan is a current example and Iraq an intriguing historical one.

(Beck and Gerschewski 2009: 86)

Seen against the backdrop of a divided West and the emergence of a multipolar world in which regional hegemony has taken over from the one or two superpowers, Beck and Gerschewski conclude that the process of stigmatizing ‘rogue states’ shows that these states should be positioned beyond the boundaries of the international community (Beck and Gerschewski 2009: 89).

Jörg Kustermans (in this volume) discards an understanding of ‘rogue states’ in terms of otherness. Arguing that the great advantage of the notion of citizenship vis-à-vis that of personhood is its political dimension, Kustermans opts for an analysis of ‘rogues’ in terms of ideologies of citizenship. The question remains which ideology is appropriate to make sense of citizenship of the international community. In order to answer this question, Kustermans takes a better look at what exactly constitutes the ‘rogueness’ of ‘rogue states’. Although he reiterates the characteristics mentioned by other authors, on the basis of empirical research he draws the conclusion that the technical definition is unable to capture what we understand by ‘rogue states’.

What makes certain states ‘rogues’ has everything to do with ‘manners’. Speaking about ‘rogues’ while emphasizing their lack of ‘manners’ or civility points to a republican understanding of democracy and world community, one in which virtue is deemed important and democracy is (also) thought of as a civilizing process. Recently, however, Obama has dropped the term ‘rogue states’ and now speaks of states of concern (to wit states that pursue nuclear proliferation). In this change of language, Kustermans sees a change of dominant political ideology. Whereas Bush spoke from within a republican ideology (and not simply because he is a member of the Republican Party), the Obama administration has adopted a liberal one, in which dignity is the most important value.

And this makes the problem also appear in a more benign, liberal light: only some aspects of ‘rogue states’ behaviors are problematic. Ultimately, liberalism thinks of states as liberal actors, and liberal actors are always rational actors.

Although the authors discussed differ on some points, there is also a remarkable convergence in their conceptualizations. I would like to draw attention to two aspects. First of all, an important element in the definition of ‘rogues’ concerns the *internal* behavior of the state. As we have seen, ‘rogue states’ do not have any respect whatsoever for the fundamental rights of their own population. Second, all authors seem to point out a certain ambiguity of ‘rogue states’, making it impossible to categorize under a strict definition. Notice, importantly, that this elusiveness is inherent to the notion of a ‘rogue’ itself. For example, Kustermans, writing on ‘rogueness’, holds that it must be distinguished from criminality and goes on to argue that ‘what the Gypsy cab driver, the slumlord, and the pimp [all examples of “rogues” by Kustermans] do share, however, is that they have a certain general offensiveness about them’ (Kustermans in this volume).

That is also why Roelle can state that ‘[v]iewed at a certain angle, the rogue state seems to be in almost necessary relation with the idea of rupture’ (2012: 560). Furthermore, according to Homolar, ‘rogues’ are depicted as “irrational” and “unpredictable” adversaries’ (2011: 710).<sup>6</sup> Finally, pointing to their perseverance and success in maintaining stability, Beck and Gerschewski tell us that ‘[b]y being stigmatized, “rogue states” appear as objects of international relations. Yet, they are also subjects’ (2009: 89). These two points of convergence will be taken up in the next two sections.

### **‘Rogueness’ and sovereignty**

As we have seen in the previous section, several scholars have pointed out that an internal criterion (large-scale human rights violations against their own population) is a crucial element of the definition of ‘rogue states’. What does this mean? ‘Rogue states’, I submit, point to the phenomenon of sovereignty, more specifically to that of unequal sovereign states (Simpson 2004).<sup>7</sup> In this last formulation, one can fully appreciate the problematic of the ‘rogue states’ discourse when one bears in mind that it is in contradiction of one of the leading principles of international law: the formal legal equality of sovereign states. This principle is codified in Article 2 of the UN Charter. By broaching the subject of sovereignty, the discourse on ‘rogue states’ takes us to the very heart of international



law because, as Antony Anghie convincingly argues, '[s]overeignty is a topic that has obsessed and preoccupied scholars of international law through the centuries.[...] International law, classically, is the law that governs relations among sovereign states' (Anghie 2009: 292).

The question remains: what exactly does the notion of sovereignty mean, especially in the domain of international law? Here, a classic distinction is made between internal and external sovereignty. Internal sovereignty has to do with certain legal powers a state possesses within its own territory: '[t]he state has the capacity and the delegated authority to take binding decisions, to make the laws with regard to persons and resources in a given territory, it has the *Kompetenz-Kompetenz* (the legal competence to decide on one's own competences), and it owns the monopoly on the legitimate use of force in its territory' (Peters 2009: footnote 4). External sovereignty, on the other hand, 'refers to the relationship between states in their quality as international legal persons *vis-à-vis* other states or other international legal persons, but does not necessarily refer to things happening outside the state's territory' (Peters 2009: 516). It also involves certain rights and obligations, such as 'legal independence, jurisdiction over people and territory, self-determination, territorial integrity, non-intervention, diplomatic immunity, legal personality, and capacity (notably the treaty-making power, the capacity to be held liable, and the capacity to become a member of an international organization)' (Peters 2009).

One important aspect of the sovereignty of a state is thus its right to defend itself in the event of an armed attack (also enshrined in Article 51 of the UN Charter). Yet, it is not difficult to see that this right, if interpreted too loosely, can make it very easy for a state to legitimize waging a war. This is exactly what happened in the Bush policies of preemptive self-defense. Following Anghie, I will focus on two aspects of this doctrine (Anghie 2009: 292): first, the relationship between preemptive self-defense and 'rogue states' and second, the related notion of democratic sovereignty. Let me stress that Bush's attempts to change international law in this respect have largely failed, also because of the opposition inside and outside the United States. Nevertheless, I believe that the Bush administration's doctrine of preemptive war and its direct relationship to 'rogue states' makes it an important example of recent state practice of designating and dealing with 'rogue states'. Furthermore, and perhaps even more importantly for our purposes, it sheds new light on the relationship between internal and external sovereignty.

Starting with the concept of democratic sovereignty, according to the Bush (or, for that matter, the Clinton) administration, democracies are

'the most responsible members of the international system' and, as a consequence, promoting democracy on a world scale became an important goal. Bush is drawing here on thoughts formulated by Immanuel Kant, in the words of Anghie: 'Democratic peace theory derived in many important ways from Kant's profoundly and enduringly important argument in "Perpetual Peace" that states that have a republican constitution are unlikely to go to war without a proper cause because of the protection built into such a system to prevent this' (Anghie 2009: 300).<sup>8</sup>

However, international law itself does not explicitly distinguish between democratic and non-democratic states when it comes to their sovereignty. Moreover, as I have already mentioned, the formal legal equality of sovereign states is a key principle of the international legal order. By introducing the normative distinction between democratic and non-democratic states, the Bush administration basically said that 'rogue states', being non-democratic, are inferior to democratic sovereign states. This means that the internal constitution of a state is intimately related to its rights in the international arena. The connection between internal and external sovereignty is made more explicit. 'Rogue states' are being excluded from the international order (their *external* sovereignty is being restricted) on the basis of their governmental form (their *internal* sovereignty is not respected).<sup>9</sup>

Let us now turn to the other point: the relationship between preemptive self-defense and 'rogues'. Indeed, starting from the statements of the Bush administration, one can also describe 'rogue states' as those states that form such a threat to the United States that an act of preemptive self-defense is justified. Whereas Anghie's descriptions of what constitutes a 'rogue states' take up the now familiar characteristics (in possession of WMD, guilty of large-scale human rights violations, and associated with active support for terrorists), he makes an interesting observation concerning the fact that a special regime (preemption) was called upon in order to adequately deal with them: 'In asserting that a different set of rules applied in relation to "rogue states" and that such states could be attacked even though they had not themselves engaged in any direct aggression, the Bush administration relied on arguments that had been made much earlier by Kant' (Anghie 2009: 296). He also points out how the discourse of preemption is related to that of the state of exception. Both are involved in times of emergency, imminent threats, in cases when all necessary measures ought to be taken to protect the legal order as a whole.

As Schmitt has famously argued, this is also exactly where the notion of sovereignty enters the scene: the sovereign 'decides whether there

is an extreme emergency as well as what must be done to eliminate it. Although he stands outside the normally valid legal system, he nevertheless belongs to it, for it is he who must decide whether the constitution needs to be suspended in its entirety' (Schmitt 2005 [1934]: 7). It is good to keep this in mind while reading another one of Anghie's observations, namely that democratic states might not be so peaceful as some might believe. On the contrary, 'another important body of scholarship suggests, it is precisely in the name of democracy that states may justify departures from international law' (Anghie 2009: 303). Here it becomes clear that, at the end of the day, the problem of preemption is the problem of sovereignty: 'The enduring and perhaps unresolvable problem arises from the paradox that the sovereign is both within and outside the law' (Anghie 2009: 306). The right to self-defense (*external* sovereignty) is thus being used in the name of (protecting) democracy (a particular way of using *internal* sovereignty).

What we have seen emerge in this section is a certain bias of (democratic) internal sovereignty vis-à-vis external sovereignty. Indeed, we encounter here what Bernhard Waldenfels calls 'a preference in the difference' (Roermund 2006: 342, Waldenfels 2006: 27). The distinction between internal and external sovereignty is not made from a neutral point of view but from one of the poles: internal sovereignty. It is always from the inside of a given polity that it is decided what qualifies as the proper democratic characteristics required to grant other polities equal sovereign status and thus what external sovereignty means. This entails the following: it is always from an *insider* (democratic and decent) that an *outsider* ('rogue' and indecent) is excluded. Does this mean that we are back at the 'rogue' as other?

### Excluding the barbarians: Kant and Rawls on 'rogue states'

This is the famous first definitive article of Kant's *Toward Perpetual Peace* to which many (implicit) references have already been made:

The civil constitution of every state shall be republican. The republican constitution is a constitution that is established, first, according to principles of the *freedom* of the members of a society (as human beings), second, according to principles of the *dependence* of all on a single, common legislation (as subjects), and third, according to the law of the *equality* of the latter (as *citizens of the state*). The *republican* constitution is the only kind of constitution that follows from

the idea of an original contract, upon which all laws legislated by a people must be based, and is therefore, as concerns right, itself the one on which all the civil constitutions are originally based.

(Kant 2006 [1795]-b: 74–75)

The reason why Kant gives the republican constitution such a prominent place in his treatise on perpetual peace is because this kind of constitution is a good safeguard against states starting wars with each other:

if (as must be the case in such a constitution) the agreement of the citizens is required to decide whether or not one ought to wage war, then nothing is more natural than that they would consider very carefully whether to enter into such a terrible game, since they would have to resolve to bring the hardships of war upon themselves.

(Kant 2006 [1795]-b: 75)

Kant thus argues that since citizens suffer most from war, when they are the ones to actually decide whether or not to wage one (which is the case in a state with a republican constitution), they will surely decide against it. Important to notice, for our purposes, is that Kant poses the *internal* constitution of a state as a condition to attain world peace.

Does Kant also have a notion of a ‘rogue state’? He certainly does not use the same term.<sup>10</sup> Nevertheless, he does come close to it when, in his *Metaphysics of Morals*, he speaks of the unjust enemy (2006 [1795]-a).<sup>11</sup> Kant defines it as ‘the enemy whose publicly declared will (be it through words or deeds) betrays a maxim which, if it were made into a general rule, would make peace among the peoples impossible and would instead perpetuate the state of nature’ (Kant 2006 [1795]-a: 144 (§ 60)). One recognizes a formulation of Kant’s categorical imperative. He gives the example of the breach of public contracts (but here we may just as well imagine the pursuit of WMD) ‘which, one can presume, is a matter that concerns all peoples to the extent that their freedom is thereby threatened. Thus all peoples are thereby called upon to unite against such mischief and take power from such a state’ (Kant 2006 [1795]-a).

Kant thus seems to go quite far, painting the unjust enemy as an outcast of the *whole* international order. Yet, he poses two restrictions. First of all, ‘the injured state may not use *all* means, but may use any means permissible in themselves to the degree that it is able, in order to assert what is its own’ (Kant 2006 [1795]-a). Second, taking power from an unjust enemy may only be done for the purpose of giving its people the opportunity to ‘accept a new constitution, one which according

to its nature is unfavorable to the inclination to wage war' (Kant 2006 [1795]-a: 145).

The liberal political philosopher John Rawls wanted to follow in the footsteps of Kant:

The basic idea is to follow Kant's lead as sketched by him in *Perpetual Peace* (1795) and his idea of *foeduspacificum*. I interpret this idea to mean that we are to begin with the social contract idea of the liberal political conception of a constitutionally democratic regime and then extend it by introducing a second original position at the second level, so to speak, in which the representatives of liberal people make an agreement with other liberal peoples. [...] [A]nd again later with nonliberal though decent people.

(Rawls 2001 [1999]: 10)

Just as Kant, Rawls starts from a certain kind of society (constitutional democracy) and then extends this to the rules between two kinds of peoples that together form 'the Society of liberal and decent Peoples' (Rawls 2001 [1999]: 23). While he distinguishes five types of 'domestic societies' (reasonable liberal peoples, decent peoples, outlaw states, societies burdened by unfavorable conditions and societies that are benevolent absolutisms), Rawls' Law of Peoples applies only to the first two kinds.

Central to Rawls' Law of Peoples is the notion of reciprocity (Rawls 2001 [1999]: 35). Outlaw states are said to reject exactly this norm. Acceptance of the criterion of reciprocity makes a people reasonable (Rawls 2001 [1999]: 28). This means, ultimately, that outlaw states are not reasonable in the sense used by Rawls. One goal is actually to make them reasonable, so that they will be part of those peoples supporting the Law of Peoples.<sup>12</sup> Until then, liberal and other decent peoples ought to be careful with them: 'Outlaw states are aggressive and dangerous; all peoples are safer and more secure if such states change, or are forced to change, their ways. Otherwise, they deeply affect the international climate of power and violence' (Rawls 2001 [1999]: 81). To keep them from using violence against liberal or other decent peoples even nuclear weapons should not be excluded.<sup>13</sup>

The main reason of an outlaw state's dangerousness is that they are ready to engage in war for other reasons than self-defense.<sup>14</sup> Yet, Rawls thinks that the problem is first of all the *internal* organization and culture of an outlaw state.<sup>15</sup> This is confirmed by what he writes about democracies:

The crucial fact for the problem of war is that constitutional democratic societies do not go to war with one another. [...] The crucial

fact of peace among democracies rests on the *internal* structure of democratic societies, which are not tempted to go to war except in self-defense or in grave cases of intervention in unjust societies to protect human rights.

(Rawls 2001 [1999]: 8)

According to Rawls, this entails a new conceptualization of sovereignty: 'We must reformulate the powers of sovereignty in the light of a reasonable Law of Peoples and deny to states the traditional rights to war and to unrestricted internal autonomy' (Rawls 2001 [1999]: 26–27). Sovereignty, Rawls argues, is to be derived from the Law of Peoples (Rawls 2001 [1999]: 27). It is thus something on which liberal and decent nonliberal societies mutually agree. Notice that, implicitly, Rawls introduces a distinction between sovereign and non-sovereign states. Deriving sovereignty from the Law of Peoples, and thus from the acceptance of the norm of reciprocity, Rawls denies sovereignty to those who have not accepted reciprocity, the outlaw states. Yet, reciprocity is never the beginning of the story; it is never the objective norm that Rawls claims it is (Rawls 2001 [1999]: 121). Reciprocity always needs to be established. Hence, it presupposes a moment of in- and exclusion to form a group (an inside of reasonable peoples) to whom this norm applies, excluding in the same act everyone else (an outside of unreasonable peoples).

This moment of inclusion and exclusion, of drawing boundaries, is the moment of the sovereign decision *par excellence*.<sup>16</sup> Far from being derived from it, sovereignty is presupposed as the very basis of the Law of Peoples. A similar argument can be made against Kant, for the norm of reciprocity is also implicit in the first definitive article of *Toward Perpetual Peace* when it refers to 'an original contract'. As is well-known, a social contract establishes relationships between the contracting parties. Yet, it fails to say on which basis the group of contracting parties was itself established. As Rousseau already knew, the latter problem precedes that of the social contract.<sup>17</sup> Again, we are dealing here with a moment of sovereignty, when the order is instituted and a decision must be made who is a part to the contract (and thus included) and who is not (and accordingly excluded).

Where does this leave 'rogue states'? While it might seem that we have drifted away from the central topic, with the problem of sovereignty and its act of inclusion and exclusion as the beginning of legal order we have come to the heart of the matter. Taking my cue from some of the descriptions of scholars discussed above and building on the work of Jacques Derrida and Bernhard Waldenfels, I propose to

further explore the ultimate undefinability of 'rogue states'. For, while it is not difficult to formulate the characteristics of 'rogue states', there also seems to be consensus that 'rogue states' escape a strict definition. Of course, one might argue that this just shows how labeling a country a 'rogue' is ultimately a matter of political decisionism, or even the result of a self-fulfilling prophecy (for further arguments on 'rogue states' and self-fulfilling prophecy, cf. Malici and Walker in this volume). However, this would be too simple an answer. For, it fails to give a satisfying explanation for the fact that some countries are designated 'rogues', while other states (that tick all the boxes) are not and, furthermore, of some of them we can safely say that they will never ever become 'rogues'. Think here, for instance, of Great Britain. Something more is at play here, I submit, and something that cannot be grasped by the concept of otherness. Here, we need to resort to the category of the stranger or the alien.

### The international legal order and the 'rogue'

In his book *Rogues*, Jacques Derrida engages in a thorough investigation of the term 'rogue' (*voyou* in French) broaching on such topics as the nature of democracy, the relationships between law, force and sovereignty and the boundaries of reason. I will not follow him on all these topics. Instead, I would like to point out some interesting descriptions that he offers which correspond to what some scholars, discussed in the second section, are also saying, namely that 'rogue states' seem, ultimately, to be defined by the fact that they are ungraspable and must therefore be feared and brought back to order. Derrida may be pointing to this when he states that '[w]hen speaking of a voyou, one is calling to order; one has begun to denounce a suspect, to announce an interpellation, indeed an arrest, a convocation, a summons, a bringing in for questioning: the voyou must appear before the law' (Derrida 2005: 64).

'Rogue' has thus always something to do with law and order, with legal order. What exactly is this relationship between the 'rogue' and the legal order? The rogue, 'who rattles, who shakes things up, who agitates' (Derrida 2005: 66) questions, in his guise of a 'rogue state', the legitimacy of the international legal order. At stake is thus 'nothing less than the reason of the strongest, a question of right and of law, of the force of law, in short, of order, world order, and its future, of the meaning or direction of the world [...] of "globalization" or *mondialisation*' (Derrida 2005: 2–3). The 'rogue' acts by seduction, by popular manners, disordering, rebellion, as an outlaw, or even as a werewolf

(Derrida 2005: 20, 64, 66, 67, 68, 69). The ‘rogue’ is forever stained, ‘for the qualification *rogue* calls for a marking or brandishing classification that sets something apart. A mark of infamy discriminates by means of a first banishing or exclusion that then leads to a bringing before the law’ (Derrida 2005: 93–94).

What Derrida’s allusions point to, I submit, can be understood by the phenomenology of (the institution of) order of Bernhard Waldenfels. He explains that an order is formed by self-enclosure:

Otherness, [...] comes about through a process of delimitation (*Abgrenzung*) which opposes the *same* [...] *idem*] to the other [...] *aliud*]. [...] From the viewpoint of a “third” party who draws the distinction, both sides are at the same distance, just as in the case of the judge or the arbitrator who makes a neutral decision, standing above the parties involved. The alien, in contrast, does not arise from a mere process of delimitation. It emerges from a process which is realized simultaneously as an inclusion (*Eingrenzung*) and an exclusion (*Abgrenzung*) (2007: 6)

In other words, boundaries are not drawn from a neutral, third place. They are always drawn from one of the poles: from the inside to distinguish itself from an outside (Waldenfels 2006: 27). What is excluded in this act is not so much the other but the stranger or the alien (following Waldenfels I will use these terms interchangeably). Now, a ‘rogue state’ is exactly such a stranger. But what do we mean by strange? Waldenfels distinguishes between three meanings of this word:

*Fremd* means first that which lies *outside of one’s own domain* [see (...) *externum, foreign, stranger, étranger*] [...] The contrast between inside and outside returns on the social level in terms of insiders and outsiders, of in-groups and out-groups. [...] The word *fremd* means secondly everything *which belongs to others* [see (...) *alienum, alien, ajeno*]. This second meaning opens a field of questions that is no smaller than the previous one, evolving around problems like having something, taking into possession, being the individual or collective owner of property. [...] But *fremd* has yet another meaning. It means, thirdly, that *which strikes us as heterogeneous, as fremdartig* [see (...) *strange, étrange*]. This last shade of alienness evokes in particular the very experience by which something appears as alien, breaking up the “community of genera,” [...] evoking “another genus” and generating feelings of astonishment, of perplexity, of bewilderment, of anxiety. [...] we confront the special phenomenon of the *alien* with the category of



the *other*, one of the most traditional forms of ontology. What we encounter as alien is not simply something other or different.

(2007: 5–6)

Aliens and strangers, while excluded from ‘our’ society, tend to return in a peculiar way. Indeed, the stranger can never be completely excluded because there is no order able to recapture its own ordering (its moment of genesis) as part of the order (Waldenfels 2006: 65). In modernity, orders are necessarily contingent (Waldenfels 2006: 19). As a consequence, what is strange is never excluded once and for all. It continues to hide in and to appear from the twilight or, indeed, the fringes of the order confronting those inside with what Waldenfels calls its *Anspruch*. Note that ‘*Anspruch*’ means both address (appeal) and claim (pretence). As an address it regards someone appealed to; as a claim it focuses on something to be done’ (Roermund 2006: 338).

Think of the beggar at the entrance of the church you wanted to visit for architectural reasons only. He appeals to you to acknowledge him as someone equal to you (a fellow sinner), he claims, even without actually saying it, that someone visiting a church ought to behave like a true Christian (and help those in need). Now, it is important to notice that your response to an alien (*Antwort* in Waldenfels’s vocabulary) – did you give him some money, did you think him a nuisance and decided to ignore him? – can never exhaust what it means to respond to an appeal of an alien. To continue our example: even if you actually have given him some money, the feeling of guilt you have while admiring the beauties of the church tells you that while you might have answered his claim, you surely did not acknowledge him as someone equal to you. This guilt is the feeling that springs from the beggar questioning the legitimacy of the order as it is; an order where some can visit churches for aesthetic pleasure while others can hardly satisfy their basic needs. It is at this moment that we can show the value of this phenomenology for law, because it is the law that introduces the viewpoint of the Third:

In order for there to be mutuality between us, the asymmetry between Other and I requires the viewpoint of “the Third Person” who draws comparisons and determines what is equal to what in spite of all differences, what is unequal to what in spite of all similarities, and what should be done in order to treat equal cases alike.

(Roermund 2006: 339)

What does this entail for a conceptualization of ‘rogue states’? The international legal order is also constituted by self-inclusion. Hence, an

inside is distinguished from an outside, and again there is a preference in the difference. In this act of self-inclusion a 'We', the community of decent states on the inside, is distinguished from an outside. Because 'a we cannot say we' it needs a representative to do so (Waldenfels 2006: 122). The United States have *mandated themselves* as the representatives of the community of decent (that is, non-rogue) states.

The 'rogues', at the outside of the international legal order, are not simply others but strangers or aliens. Of course, 'rogue states' are not beggars sitting at the entrance of our churches but not unlike these beggars they question the legitimacy of the order itself. For this questioning belongs to the nature of the strange: the strange strikes me by surprise, upsets me, discomforts me, unsettles me. 'Rogue states' do exactly this: they call into question the present world order as it was born after the collapse of the Soviet Union. They do so by appealing to us to consider whether our economic system is really the only decent one available (North Korea), whether the present distribution of WMD actually enhances peaceful relations between countries (Iran), whether the West has a divine right to scarce natural resources (Iraq). It might be argued that the answer to these regimes also strengthened the core norms of international law, but that would only prove the point: '[t]he demand of the Alien in law is the demand, first and foremost, of what is politically excluded in so far as this very exclusion remains constitutive of the polis' (Roermund 2006: 342). I do not mean to say that all 'rogue states' are actually good, nor that all the ways in which we presently deal with them are bad. All that I want to argue is that there might be more subtle ways to deal with the aliens of the international legal order than some of the ones presently used. Also deviance in international relations might be an appeal to which we are to respond.

### **Conclusion: the 'rogue' as blind spot**

In this chapter, I have argued that, from a philosophical point of view, 'rogue states' should not be seen as the other of the international legal order but rather as the strange or the alien. The strange emerges from the shadow of every order. For the international legal order this entails that its strangers are here to stay. Of course, it is part of the game of international politics which states are named 'rogues'. However, as long as we will have nation states, there will be 'rogues'. Another term may be used to describe them. For a while, the term may even vanish completely. Yet, the strange remains, also in an international legal order because even such an order can only constitute itself by inclusion and

exclusion, by drawing boundaries. With every act of boundary drawing the strange will reappear because the institution of order cannot be legitimized by referring to the terms of the order instituted. Drawing the boundaries between self and alien, between decent democratic state and 'rogues' is ultimately an act which cannot find a justification in the international legal order as it is. The 'rogue state' is nothing less than the blind spot of the international legal order.

## Notes

1. Rogue states are conceptualized in terms of otherness in the contributions of Kustermans, Bucher and Maliciand Walker to this volume. However, they do not conceptualize rogue states in terms of strangeness.
2. Roermund (2006) forms the best starting point for the legal philosopher interested in the work of the German phenomenologist.
3. It is important to stress that international law as such has never recognized the notion of a rogue state. The nineteenth-century distinctions between civilized and non-civilized nations were of a different character. For a historical overview of the notion of rogue state (in the broad sense of an outcast of the international order), cf. Henriksen (2001).
4. See also the introduction to this volume.
5. Homolar (2011: 721): 'What lies at the core of the US conception of rogue states as irrational actors is not their behavior in international affairs per se, such as the development and proliferation of weapons of mass destruction and sponsoring or engaging in terrorist acts. Rather, in the contemporary US defence policy context, how states treat their own populations has evolved as the crucial marker to determine whether they are recognized by US policymakers as "rational" actors in international affairs'.
6. Compare also Homolar (2011: 720): 'By definition, rogue states are "undeterable". As a result, such regimes are believed to be inherently "unpredictable" – and may therefore behave "irrationally" in the international arena'.
7. Compare Simpson (2004: 350–51): 'while the classic or traditional norms of collective security and self-defence will continue to operate on the plane of sovereign equality, the unequal sovereignty regime will predominate wherever there are either Great Powers or outlaw states involved'.
8. Kant himself had another concept of democracy but what he calls a republican constitution is widely regarded as our democratic constitutional state.
9. These attempts to designate a certain state as a rogue were not equally successful. It is important to differentiate here between attempts by way of the Security Council and unilateral attempts to designate a certain state as a rogue.
10. See, however, page 102 of the translation of 'Toward Perpetual Peace', where Kant states the following: 'let justice reign, even if it may cause all the rogues in the world to perish'. The German original reads: 'es herrsche Gerechtigkeit, die Schelme in der Welt mögen auch insgesamt darüber zugrunde gehen'. As the translator also notes, this is Kant's not very literal rendering of the Latin saying *fiat iustitia, pereat mundus*.

11. Many thanks to Pauline Kleingeld for pointing this out to me. For more on the Kantian idea of an unjust enemy and its relevance to international relations theory, see Müller and Wolff (2006).
12. Compare Rawls (2001 [1999]: 105): '[T]he long-term goal of (relatively) well-ordered societies is somehow to bring the outlaw states into the Society of well-ordered Peoples'.
13. Rawls (2001 [1999]: 9): 'Yet so long as there are outlaw states – as we suppose – some nuclear weapons need to be retained to keep those states at bay and to make sure that they do not obtain and use those weapons against liberal or decent people'.
14. Rawls (2001 [1999]: 90): 'One kind [of non-ideal theory, LC] deals with conditions of non-compliance, that is, with conditions in which certain regimes refuse to comply with a reasonable Law of Peoples; these regimes think a sufficient reason to engage in war is that war advances, or might advance, the regime's rational (not reasonable) interests. These regimes I call *outlaw states*'.
15. Rawls (2001 [1999]: 105–6): 'The outlaw states in modern Europe in the early modern period – Spain, France, and the Hapsburgs – or, more recently, Germany, all tried at one time to subject much of Europe to their will. (...) Their fault lay in their political traditions and institutions of law, property, and class structure, with their sustaining religious and moral beliefs and underlying culture. It is these things that shape a society's political will; and they are the elements that must change before a society can support a reasonable Law of Peoples'. See also at 90, footnote 1 which says that even a non-aggressive state that does not respect the rights of its minorities is for that reason alone already an outlaw state.
16. For the continuing importance of legal boundaries in this era of globalization see the thought-provoking work of Hans Lindahl, for example Lindahl (2010).
17. I am indebted to Bert van Roermund for this argument, see for example Bert van Roermund (2003).

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# 4

## Liberal Rogues: The Pitfalls of Great Power Collaboration and the Stigmatization of Revolutionary Naples in Post-Napoleonic Europe

*Bernd Bucher*

### Introduction

This chapter will draw on a historical investigation to argue that naturalizing the ‘illiberal-rogue nexus’ commits an ontological fallacy and removes from sight ‘the very practice in which states or regimes are labeled as rogues and subjected to specific disciplinary regimes’ (see the Introduction to this volume). So far, the ‘rogue state’ literature (for example, Caprioli and Trumbore 2005, Klare 1995, Lennon and Eiss 2004, Litwak 2000, 2007) predominantly depicts ‘rogues’ as states which not only sponsor terrorism and seek to acquire weapons of mass destruction, but at an underlying level, as actors with domestic structures that are at odds with liberal-democratic norms (for example, Becker 2005, Hoyt 2000, Nincic 2005, O’Reilly 2007, Rubin 1999). Regime types are tied to international security on the basis that domestic oppression and international aggression are both argued to be rooted in the intrinsic qualities of illiberal regime structures. Generally ‘un-free’ non-democratic political organization is said to lead to non-consensual and forceful means of domestic governance which are then reflected in threatening behavior internationally. ‘Without the checks and balances of a democratic system or the constraints of large-scale bureaucracies, rogue regimes are [argued to be] subject to the whims of charismatic individuals’ (Tanter 1998: 16–17). In short, ‘rogues’ are viewed as being ‘more likely to oppress their own people, [as well as to] threaten their neighbors’ (Lake 1993), because they are illiberal. As such, ‘how states treat their own populations’ (Homolar 2011: 271) is determined by regime structures which also inform foreign policy behavior.

Democratic decision-makers are in turn prone to establish a 'we-they logic' in regard to illiberal 'rogues' 'on the grounds of institutional (for example, decision-making) and cultural (for example, intolerance) deficiencies' (O'Reilly 2007: 311). While such a perspective brings with it the risk of narrowing down diplomatic openings (Sharp 2009: 211) by marking states as 'irredeemably evil' (Heisbourg 2004: 16) at the level of foreign policy, the theoretically more pressing issue is that the widespread acceptance of such arguments has led to a naturalization of what can be termed a 'illiberal-rogue nexus'.<sup>1</sup>

While recent critical approaches to the study of 'rogue states' have convincingly underscored the constructed character of 'rogues', the link between illiberalism and 'being a rogue' has not been problematized extensively. But explicating the historically contingent character of this link is especially important for constructivist (and arguably English School) approaches, as naturalizations are at odds with their underlying ontological and epistemological commitments. This chapter therefore engages the 'illiberal-rogue nexus' from a historical perspective and seeks to show that it reflects contemporary political processes rather than ontological necessities. In order to add to the growing critically inclined literature studying deviance in international relations (Finnemore 2003, Homolar 2011, this volume; for an English School take, cf. Sharp 2009), the chapter at hand has two main tasks.

First, the following study seeks to demonstrate that the concept of 'rogue' is not tied to illiberal regime types by necessity, but through continual re-enactment. The notion of 'rogue state' adopted here signals that states are constructed as being intrinsically threatening and as being banished from international society in a stigmatized fashion (Derrida 2005: 133). 'Rogues' are therefore qualitatively different from rivals or enemies in that they are understood as being outside the international order, occupying the position of evil or the diabolical (Derrida 2005: 137). This spatial allocation arguably allows for special measures to be applied in relation to these states which are beyond redemption. Rather than treating 'rogues' in terms of pre-given categories with certain (contested) characteristics, this chapter underscores the constructedness and historical variability of 'rogue states' by pointing to a process in which liberalism was linked to intrinsic threat and liberal states actually acquired a 'rogue state' status. The possibility of liberal 'rogues' underscores that regime structures and therefore inherent qualities cannot easily serve to 'define rogue states by any set of objective criteria' (see the Introduction to this volume).

Second, and closely related, the following pages outline that the conditions of possibility of 'rogue state' emergence are closely tied to the successful articulation of standards of legitimacy within emerging orders of justification. These are relevant for identifying states that qualify for full membership within an international society as well as for providing standards to identify deviance. While the theoretical argument that semantics of legitimacy inform 'we-they' relations among international actors is well understood (cf. Simpson 2004, Kustermans in this volume), the argument presented here engages the implications of this finding with regard to the cooperation/conflict dichotomy. Rather than treating cooperation as an *a priori* desirable state of affairs or in terms of 'win-win situations', this chapter highlights the political dimension of (great power) cooperation and conceptual unity. In doing so, it underscores that analyzing the politics of labeling cannot turn a blind eye towards definitional practices and power (cf. Introduction to this volume). Studying great power cooperation and 'rogue state' emergence suggests that IR theory, and not only the 'rogue state' literature, should be more willing to ask about 'who cooperates in what regard, to what end and to whose / which detriment'.

In order to substantiate these two arguments, this chapter will trace the construction of a 'rogue state' concept which, contrary to contemporary intuitions, was successfully linked to liberal-constitutional states and representational domestic structures through a process of great power collaboration. Doing so requires a historical perspective and a focus on the establishment of international order in Europe after Napoleon. Tracing the politics of the Concert of Europe supports the argument that great power collaboration not only stabilized the European order. The increasing collaboration among Russia, Prussia and Austria at the same time established a discourse of legitimacy that moved domestic structures to the center of the debate. As this discourse linked liberal-representational forms of government with revolution and instability, it became possible to think about liberal states in terms of *ipso facto* threat, while providing the ground for a temporary split among the five great powers along the lines of their domestic structures. To be more precise, this chapter will present a historical narrative (Bevir 2006, Suganami 2008) which discusses how Naples emerged as a liberal 'rogue' after the Congress of Vienna and how this was inseparably tied to the formation of a closer union among Christian-monarchical states (the Holy Alliance) within the club of the great powers. As such, this chapter argues that the historical emergence of liberal 'rogues' in the nineteenth century and of the Holy Alliance was a temporary outcome



of political decisions best understood in terms of a yoking process (Abbott 2001). The concept of yoking signals that social entities only 'come into existence when social actors tie social boundaries together' (Abbott 2001: 263). It entails that a number of not necessarily related practices are connected to form social entities through the destruction of 'previous dimension[s] of difference' (Abbott 2001: 272) and the continued establishment of new connections between sites of difference. The emergence of the state, and in this case the emergence of a deviant state, involves the 'persistent drawing and redrawing of boundaries, establishing and re-establishing those demarcations' (Jackson and Nexon 1999: 315) which make it possible to ascribe inherent qualities. The dramatic reversal of contemporary concepts suggests that being a 'rogue' is not a function of specific domestic structures, but is inseparably tied to political processes of fixing meanings of domestic structures at an international level. This view of 'rogues' moves the notion to the fore that the plausibility of 'rogues' is dependent on the articulation of dominant legitimacy standards and the continued articulation of 'rogue state' status. As such, successful ascription of 'rogue' status needs to be seen in the light of prevailing power relations and cooperation among key international players. This approach subsequently inquires into 'the deep structure and underlying values of the international society as a whole' (Introduction) and creates space in which to critically reflect on the merits and pitfalls of international cooperation. This chapter will add historical depth to the 'rogue state' debate in order to substantiate the social construction of political entities, while critically engaging the cooperation/conflict dichotomy. The argumentation will proceed in four interrelated steps.

The discussion of emerging liberal 'rogues' in the nineteenth century will begin with a contextualization of the narrative. These preliminary remarks will focus on the treaty of the Holy Alliance (1816) which served as an interpretive scheme and political resource in the discussions leading to the emergence of liberal 'rogues'. As these great power deliberations specifically concerned the revolution in Naples (1820) and how to deal with it, the second section will discuss this turbulent episode. The main bulk of the empirical study will focus on the Congress of Troppau<sup>2</sup> where the meaning of liberal-constitutional domestic structures was temporarily fixed as being *ipso facto* threatening to the order and peace of Europe. This third section will not only discuss the emergence of liberal 'rogues', but also the implications of this process for the unity of the great powers. The fourth section will empirically focus on the Congress of Laibach<sup>3</sup> which illustrated that the concept of 'rogue

state' is dependent on the continued re-articulation and re-enactment through cooperative processes, before discussing the conflict/cooperation dichotomy. This section precedes the concluding remarks which primarily touch on problems of 'de-roqueization' (cf. Onderco and Malici and Walker in this volume).

### **Europe after the Napoleonic Wars and the treaty of the Holy Alliance**

Following the Napoleonic Wars (1803–1815), Austria, Britain, Prussia and Russia rapidly invited France to participate in negotiating the future European order. This not only resolved diplomatic stalemates between the allies, but foreshadowed the re-integration of France into the circle of great powers by 1818. The order that emerged through these great power consultations was characterized by a shift in the legitimation of rule, which was no longer solely based on dynastic claims and divine right, but amended by the shared understanding that the right to rule needed to be compatible with the stability of the European order (Schroeder 1996). Europe after Vienna was therefore 'not just a world restored' (Ford 1970: xiii). Importantly, this new order was not divided along the diverging domestic structures of the great powers. Although Britain and France were characterized by liberal-constitutional elements, this did not play a decisive role in regard to their legitimate standing as great powers. Following 1818, the Concert of Europe therefore consisted of five members with (roughly) equal status, although differences in power and influence prevailed. As will be shown, the processes at Troppau and Laibach moved domestic matters to the fore, thereby providing a new 'we-they' balance among the great powers. This illustrates that domestic structures need to be constructed as relevant for international relations, rather than them being important in themselves.

But the finding that alignment among the five great powers was not precluded by diverging domestic organization (at the 'outset') should not distract from the fact that the articulation of restorative politics became increasingly dominant in Austria and Prussia (see the Carlsbad decrees of 1819), and in Russia in parts. Internationally this restorative movement was symbolized by the treaty of the Holy Alliance which was signed in 1816. Although this treaty did not have a binding character (cf. Menger 2009, Schaefer 1963), it came to be a reference point for group formation and served as a statement of purpose and group identity. Quite irrelevant in terms of political conviction and internalization, the treaty became to be utilized as an argumentative resource

which signaled a set of political and moral values which could/should underlie the conduct of foreign policy. As such, it entered the political arena as an interpretative scheme informing the 'rogueization' of Naples and simultaneously the formation of the Eastern powers or 'Holy Allies'.

With reference to the shared experience of the Napoleonic Wars the treaty called its signatories to base their relations on a supra-denominational understanding of the Christian faith in terms of the precepts of justice, Christian charity and peace (Schmalz 1940: 18). Taking Christian obligations seriously in foreign affairs was linked to stability and peace by contrasting it to the liberal French Revolution and the Napoleonic Wars which had ravaged the continent. This search for a common (moral) foundation was characterized by a double movement in which the articulation of 'we' group principles implicated the problematic nature of liberalism/republicanism. The treaty attempted to propagate benevolent conduct among rulers, but whether intended or not, the treaty also established a dichotomy between good monarchical (absolutist) forms of statehood and problematic ones that were associated with revolution and war. In short, the 'positive' articulation of group principles – a 'we of Christian monarchs' implied a 'they' of non-monarchical liberal republics and states which did not qualify on religious grounds. Consequently some states *could* now be excluded from the 'true and indissoluble fraternity' (Article One of the Holy Alliance, quoted in Naef 1928) of nations on the basis of their domestic structure.

The discursive link between the Napoleonic Wars and the liberal character of the French Revolution made viewing emerging republics as heralds of revolution and international instability plausible. This of course did not conclusively fix liberal states as *ipso facto* threatening, nor did it automatically legitimate a right to intervene in liberal(izing) states. But it presented a highly visible symbol to which political action could refer to in establishing such meanings and rights. In practice the treaty became politically salient at the Congress of Troppau, where it was utilized to link liberalization and *ipso facto* threat. As this congress dealt with the revolutionary events in Naples, I will outline the Neapolitan revolution of 1820 in the next section.

### The revolution in Naples (1820)

Had the revolution in Naples clearly been the outflow of radical liberalism and had the foreign policy of Naples actually been expansionist, it might have been very tempting to view it as being irredeemably beyond international society on the basis of malevolent intrinsic dispositions.

But as the historical record suggests, Naples was a benevolent actor which forfeited territorial gains while upholding traditional claims to legitimacy. To underscore that the ascriptions of 'rogue state' status to Naples cannot simply be deduced from the events on the ground, this section will briefly outline the revolutionary process as well as Neapolitan foreign policy.

The Neapolitan revolution (cf. Romani 1950) was characterized by a high degree of contingency, incompetence and institutional deadlock between the Muratist and Carbonari factions, rather than the unfolding of an inherent liberal expansionism. The Muratists were military and civil officials who supported a constitutional monarchy that would 'place power in their own hands [similarly to] the French Charter' (Romani 1950: 9), but were highly skeptical of liberal-democratic rule. The Carbonari were on average more liberally inclined landowners 'who aimed at the modernization of economic arrangements dating back to feudal times' (Romani 1950: 11). As such, both factions had reason for discontent, but little common ground upon which to base future governance structures.

The actual revolution began in the town of Nola after Luigi Minichini, a priest and Grand Master of the Carbonari, talked two sub-lieutenants (Michele Morelli and Giuseppe Silvati) into joining his cause (Schroeder 1969: 30) by falsely claiming that he had secured high ranking support (General Pepe) for a Carbonari uprising. Apparently convinced, the sub-lieutenants and '127 sergeants and troopers [...] joined forces with Minichini, [and] some twenty-one Carbonari' (Romani 1950: 40) on late July 3, 1820, and sparked the revolt by marching to the nearby town of Avellino. While such a force by itself could not overturn the monarchy, a number of high ranking Muratist officers contributed to the success of this uprising by failing to act decisively in favor of the old regime.<sup>4</sup> Given the unwillingness of the military leadership to defend the status quo, King Ferdinand accommodated himself with Carbonari demands and granted the liberal Spanish Constitution of 1812 (Dippel 2005: 163) on July 8. 'In bloodless, almost ridiculously easy fashion the revolution had triumphed' (Schroeder 1969: 32) in only a few days.

While the Carbonari and Muratist camps had cooperated during the initial stage of the revolution, it soon became apparent that their alignment would not last. The Muratists quickly excluded all Carbonari from the executive decision-making bodies (Romani 1950: 81, Schroeder 1969: 33), while the Carbonari in turn obtained parliamentary control over the adopted constitution, thereby foreclosing any changes to the constitution which stood for a radical perspective unwelcomed by the

Muratists (Schroeder 1969: 35, 101). 'The moderate leaders were thus saddled at the outset with a form of democracy which gave great opportunities to the extremists' (Webster 1925: 261).

In the final analysis the revolution was characterized by contingency and largely the result of indecisive action and even 'Ferdinand I's laziness and cowardice' (Schroeder 1969: 608). In short, it cannot easily be attributed to 'liberal contagation' or the quasi automatic unfolding of a grand narrative of a liberal threat (Schroeder 1969, Weber 1995: 46). Nor was the threatening nature of the regime (type) supported by its actual foreign policy which attempted to link the change of government in Naples to the constitutionalist monarchies already in existence, while underscoring the non-expansionist character of Naples:

Can war be waged against a nation because it wishes to govern itself by good law? And why isn't war waged against France, against Spain, against the Kingdom of Holland, against England and against the United States of America? [...] We shall not throw down the gauntlet to other powers ... but if they dare to penetrate our territory, they will find retribution for their injustice in our national courage.

(General Pepe quoted in Romani 1950: 69)

These linking attempts were counteracted by the adamant stance of the Carbonari on constitutional change. The resulting institutional deadlock made it very difficult for Naples to obtain the active support of any great power (especially France), because of the high symbolic character attributed to the refusal to change the constitution. Their policy clearly aided those who sought to portray the events in Naples as a revolution which was fundamentally at odds with monarchical rule (Kissinger 1954: 269). Apart from these verbal and symbolic dimensions, the new government signaled self-restraint repeatedly. The new ministry had protected the diplomatic corps during the revolution, while meeting all of Naples's debt obligations on time (Schroeder 1969: 35). The government even suppressed a newspaper that had voiced 'too strongly' against Austria (cf. Schroeder 1969: 35). Most decisively, Naples declined territorial gains by refusing to annex two papal enclaves (Benevento and Pontecorvo) which had actually called for incorporation into Naples (Heydemann 1995: 98).

The decision-makers in Troppau were in fact well aware of the domestic difficulties in Naples, as well as the rather conservative foreign policy of the new regime (Schroeder 1969: 36, 49). The situation in Naples could have been interpreted as a change of government that did not bring

with it the (alleged) danger of radical liberalism (Reinerman 1971: 265). There was consequently no empirical necessity to link the revolution with an intrinsic liberal threat or to deduce the necessity of a general right to intervention from the events in Naples.

This is not to deny that the revolution could not be read as being problematic. Indeed the view that 'absolutist states did not fear liberalism without cause' (Finnemore 2003: 116) was widespread. Metternich was also worried about Austria's dominance in Italy (Bertier de Sauvigny 1958: 92), not least because the events in Naples potentially provided France and Russia with an opportunity for 'mischievous intervention' (Bartlett 1996: 19) and alignment. The argument is rather that the character of the events in Naples was neither self-evident nor clear-cut and needed to be appropriated within a complex network of interpretive schemes and interests. In a nutshell, the discursive link between domestic structure and international threat needed to be established through a political yoking process, not through reading the intrinsic character of liberalism off the revolution.

### **Liberal 'rogues' and Holy Allies – the Congress of Troppau**

Interestingly this outcome could not be reduced to actor intentions. Marking liberalizing states as *ipso facto* threatening, linked with a general right to intervention and the accompanying split among the great powers, was not pursued (at the outset of the conference) by any single participant, but resulted from cooperation. Indeed the interests of the great powers only converged in regard to the importance of the established treaty system and the necessity to react to the events in Naples. Apart from this common basis, the great powers disagreed over the principles underlying their policy towards Naples. There were, to simplify matters, two main issues of contention.

For one, the great powers disagreed over the question of whether the revolution should be considered an Austrian or a European matter. Both stances were justifiable as Austria had exercised a high degree of control over Italy in accordance with the territorial settlement of Vienna, while instability was arguably problematic for the (continental) powers more generally. The second dimension concerned the question of which principles (liberal, Christian-monarchical, *Realpolitik*) should underlie any future intervention in Naples. This matter was very closely tied to the question of whether or not to establish a general right to intervention or not. In the following I will very briefly outline the positions of the main actors.

As mentioned, Austria had strongly dominated Italy in accordance with the Vienna territorial settlement, and Austrian decision-makers considered hegemony in Italy a necessary condition to secure its standing in central Europe. Unsurprisingly, the events in Naples were considered to be an Austrian matter, to be dealt with as the Emperor sought fit. Metternich even articulated a preference for immediate action without any great power consultations (cf. Schmalz 1940, Walker 1968: 130–31). Quite in line with a foreign policy that favored maneuverability, Austria was reluctant to support any general right to intervention. Practically Austria aimed to return King Ferdinand to the throne of Naples as an absolutist (not a constitutional) monarch. Prussia largely followed the Austrian lead in this case mainly for domestic reasons (cf. Angelow 2009), and it is not necessary to discuss its role here systematically.

The same is certainly not true for Russia. In sharp contrast to Austria, Russia framed the revolution as a genuinely European matter. This called for great power intervention and deliberation regarding the form of government to be established. According to the initial Russian position, the domestic structure of Naples should be based on ‘two freedoms’, namely political liberty and national independence. In short, the Russian position propagated by Foreign Minister Capo d’Istria called for European intervention on the basis of liberal values. Additionally, Russia articulated a strong interest in the establishment of a general right to intervention.

Whereas Russia, Prussia and Austria were represented at the congress by decision-makers, France and Britain only sent observers. This clearly had implications for the direct consultations, as well as for the emergence of a new alignment among the great powers. France, for its part, articulated a preference for making the revolution in Naples a European matter (cf. Schmalz 1940). But being weak domestically (cf. Marcowitz 2009: 111), it had to forego any chance of reasserting its influence over Italy. The absence of France was indeed central, as a French-Russian alignment at the congress would have shifted the power relations noticeably, while making different argumentation strategies possible.

British abstention reflected the increasingly dominant position within the government to involve Britain in continental affairs only in cases where the Vienna territorial settlement was endangered. From Britain’s Foreign Secretary Castlereagh’s perspective, the situation in Italy was consequently an Austrian matter. Even more importantly, Britain was strongly opposed to any general right to intervention. Revolutions should be pragmatically dealt with on a case-by-case basis (Kissinger 1954: 254). In this case Britain sided with Austria’s reading of

the situation as it considered the reassertion of Austrian dominance in Italy to be central to the Vienna territorial settlement and consequently in the interest of European stability (Heydemann 1995: 91). The fact that Britain and France did not actively participate in the deliberations, and Prussia played a minimal role, set the stage for deliberations between Austria and Russia.

### **The deliberations – unforeseen common ground**

The stark discord between Austrian and Russian foreign policy outlined above failed to manifest itself in an utterly surprising fashion. To the astonishment of most observers and historians thereafter, Alexander disassociated himself from the liberal elements of the Russian strategy after a prolonged discussion with Metternich (Reinerman 1974: 262–76, Wiczynski 1970). This reduced the complexity of the deliberations noticeably, and created space in which to collaborate. The Tsar having agreed upon the elimination of liberal values underlying the future of Neapolitan governmental structure, Metternich could in principle be more compromising with regard to a general right to intervention. Such an approach would preserve Austro-Russian unity and largely free Austria to intervene on its own terms. But it would do so at the price of alienating Britain which could hardly agree to a general right to intervention based on regime type considerations.

Metternich subsequently underscored the monarchical underpinnings of intervention ‘based on the intrinsic evil and menace of the revolution [as well as] on the overtures and the protestations of the legitimate sovereign’ (Schroeder 1969: 63). As such, the intervention should aim to restore uninhibited absolutist rule because the imposition of any type of constitution would interfere with the rights of the legitimate monarch. In principle the intervention was to be based on broad moral consent, while leaving the operational aspect of the intervention entirely to Austria (Schroeder 1969).

Capo d’Istria envisioned that revolutionary activities should automatically exclude states from the European alliance and legitimize (joint) great power intervention (Schroeder 1969: 66) with the goal of establishing a constitutional monarchy which would guarantee Naples ‘political liberty and national independence’ (Kissinger 1954: 262). This argumentation linked the events in Naples with the situation in France during the return of Napoleon and established that ‘revolution’ was *ipso facto* threatening to monarchical rule (while simultaneously upholding the view that basic freedoms were favorable to long-term stability).



While Metternich and Capo d'Istria could not find sufficient common ground, Metternich again secured Alexander's support, who now called for a memorandum (entitled 'Bases of a Transaction') that would demonstrate how the 'principles of the Holy Alliance could be applied to the revolution' (Palmer 1986: 65, own translation). This not only established that the restoration of monarchical rule would be the principle upon which intervention would rest, it also linked monarchical rule with stability and order and signaled that revolution itself was a threat to the monarchs of Europe.

Having secured that the domestic structure of Naples would not be restructured along the lines of the two freedoms, Metternich now (in an adjustment of argumentation) insisted that rule in Naples should reflect the sovereign will of Ferdinand, but needed to be compatible with the broader security needs of Europe. This, so the argument, called for the establishment of a state that was entirely free from liberal elements and would therefore 'not be in opposition to the internal tranquility of neighboring states' (quoted in Schroeder 1969: 77). The King of Naples would consequently not be legitimated to enact any liberal-representational governmental structures. This curtailment of monarchical sovereignty was premised on the notion that any type of liberal-representative type of government would be opposed to the order in Europe.<sup>5</sup> This argumentative move (primarily suited to secure Austrian dominance in Italy) directly linked regime type and international order. Any form of liberal representation came to be opposed to the 'tranquility of neighboring states'. The link between external threat and internal composition of the state was thereby established not only for Naples, but also more broadly (Schroeder 1969: 79). The preliminary Troppau Protocol, in a mixture of Metternich's and Capo D'Istria's thought, subsequently stated that

states which have undergone a change of Government due to revolution, the results of which threaten other states, *ipso facto* cease to be members of the European Alliance, and remain excluded from it until their situation gives guarantees for legal order and stability. If, owing to such alterations, immediate danger threatens other states, the Powers bind themselves, by peaceful means, or if need be by arms, to bring back the guilty state into the bosom of the Great Alliance.

(quoted in Walker 1968: 127)

The Troppau Protocol (signed on November 19, 1820) and the actual intervention underscored that the events in Naples qualified as 'an

immediate danger', thereby establishing that threat was not primarily tied to foreign policy behavior but linked to regime change and type.<sup>6</sup> This process moved Naples beyond being a 'normal' competitor within international society. Naples had become associated with 'intrinsic evil' and fundamental deviance which warranted intervention. Liberal states were now potentially located outside of a cosmological order as liberals and revolutionaries were even equated with being godless (cf. Metternich in Naef 1928: 18).

This process of linking and differentiation (Hansen 2006), which established the centrality of domestic structures for international stability and peace (Clark 2005), was part of a broader yoking process (Abbott 2001: 263–73, Jackson and Nexon 1999: 314). It concerned the emergence of a new 'we-they' balance among the great powers along the dichotomy of liberal threat and monarchical stability. Given the congress outcome, it is unsurprising that Britain and France disassociated themselves from the protocol (Schulz 2009: 85). Especially Britain would not commit to a course that would legitimate intervention into liberal states (Schroeder 1969: 85) and insisted that the Vienna treaties were to 'guard against the "revolutionary power"; but only against its military character, not against its principles' (Kissinger 1954: 249). As such, Britain would not contribute to 'the superintendence of the internal affairs of other States' (Bartlett 1996: 19). Whereas European politics were characterized by a close, if precarious, unity between the members of the quadruple alliance prior to Troppau, the break with Britain and France decisively changed the relative positioning of the great powers (Webster 1925: 292). After the Congress of Troppau, it became politically meaningful to distinguish between Russia, Prussia and Austria as a conservative 'we' on the one hand and France and Britain as states with liberal domestic elements on the other. Austria's and Russia's invocation of the Holy Alliance had led to the possibility and emergence of the 'Holy Allies', which had Britain and France as their potential others. As such, the Troppau Protocol was the decisive step 'along the road followed by this Triple Alliance, which was soon to be substituted for the quintuple' (quoted in Cresson 1922: 100, d'Audiffret-Pasquier 1893).

The 'we' of the Concert of Europe after 1818 was now supplemented (through thick cooperation) by the 'we' of the Holy Alliance understood as 'a new and real union based on the memory of an old and vague understanding' (Temperley 1925: 16). The Eastern powers as a concept, and as actors, were constituted in their relation to a specific notion of liberal 'rogue state' and towards the more liberal great powers in a process of establishing 'new' dimensions of difference. Troppau therefore

signaled the emerging salience of domestic structures and the associated alienation of Britain and France (Ford 1970: 270–71). This new situation was vividly captured in Metternich's evaluation of Britain shortly before the Congress of Laibach. As a constitutional monarchy, the close ally of the past years was now conceptually 'linkable' to the French Revolution and the dangers of liberalism. Britain had (been) prepositioned as a (possible) 'they' (Heydemann 1995: 97). One could also say that liberal domestic structures had been successfully securitized (Buzan et al. 1998). The obvious dangers associated with this new interpretive scheme underlying foreign policy in Europe were summarized by the British observer in Troppau who asked Metternich:

Does not the formation of this League [...] dissolve the harmony of the whole European System...? And [...] will not the one half of Europe be forced into a direct opposite Party from the other?

(FO 7/153, Confidential, Stewart to Metternich, Troppau, 15 Nov 1820, qtd in Heydemann 1995: 96)

### **The Congress of Laibach: new challenges**

The policy formulated at Troppau was carried out at the Congress of Laibach in January 1821 (Richardson 2002: 58). The events that confronted the Holy Allies there re-affirmed the formation of this new 'we-group' and can be understood as a case of ideational and material great power cooperation. At the same time, the congress brought the temporality of attaching meanings to the fore.

The deliberations on Naples, absent substantial political opposition, were quick and effective (on Russian actions, cf. Schwarz 1935: 207–8, Webster 1925: 314). By the end of March the Austrians had restored a monarchical 'system inspired by wisdom, reason, justice and correction' (Metternich to Alexander, December 15, 1820, quoted in Cresson 1922: 101). Great power cooperation was based not only on the convergence of immediate interests, but on a broader shared understanding of order in Europe. This underlying unity was also demonstrated in regard to the insurrection in Piedmont, news of which reached the decision-makers during their deliberations in Laibach. To make things short, in Piedmont parts of the Army had forced the abdication of King Victor Emmanuel (Lyons 2006: 46), who called for Austrian aid. As this insurgency was, in contrast to Naples, indeed characterized by an anti-Austrian stance (Schwarz 1935: 211), there was little to stand in the way of intervention (Schroeder 1969: 119, Schwarz 1935, Webster 1925).

As such, Piedmont's revolution did not pose a challenge for the underlying interpretative scheme (conservative interpretation of the Holy Alliance) of the Holy Allies. In the final analysis, the decision to intervene in Piedmont rearticulated the interpretation of the treaties found in Troppau and underscored the cooperative unity of the Triple Alliance.

The events that soon followed in the Danubian Principalities of Moldavia and Wallachia were a more difficult matter (Chapman 1998: 71). The challenges encountered in dealing with this uprising revealed the continued dependence of meanings and social entities on their agential re-enactment. While the historical study so far has focused on the stabilization of meanings and how this implicates actor relations, this episode underscores that meanings can only be partly stabilized and that social entities need to be understood as the ongoing product of practices. In a nutshell, the revolt called for freedom from Ottoman rule and raised the 'banner of freedom for Moldavia and all of Greece' (Schwarz 1935: 214). It thereby touched on the balance of power in the Balkans and the relations between Russia, the Ottoman Empire and the other great powers more broadly. A successful Russian intervention against the Ottomans (which was to be expected) would also have overturned the territorial settlement of Vienna. Considering that this region was a traditional focal point of Russian foreign policy and that intervention could have been justified on the basis of existing treaties, the other great powers articulated an interest in non-intervention as to preserve the order formulated in 1815 (Chapman 1998, Schroeder 1969: 614). The prospects of a Russian intervention were generally considered to be high, especially as the 'cause' of the revolution as a battle against Muslim domination and Christian liberation was justifiable in terms of Christian principles which had gained international prominence in Troppau, and in terms of the broader European sentiment at the time. But as the following discussion will illustrate, the interpretation of principles and the inference of policy can be a highly contested process. The principles articulated in Troppau could indeed be interpreted in a variety of ways with different policy recommendations in turn.

Clearly the articulated principles did not necessarily point to an intervention to support the revolutionaries, as the Holy Allies had just used the principles of the Holy Alliance to justify the intervention in Italy to restore monarchical rule. This line of reasoning suggested that the concept of 'legitimate rule' (not Christian values) lay at the heart of the Holy Alliance. In this interpretation the right of the Sultan to rule his kingdom eclipsed any rights of his subjects to revolt, be they Christian

or not. This argumentation reaffirmed the legitimacy of non-Christian states on the basis of monarchical rule.

Alexander's religious advisors, on the other hand, argued that the domestic structure of the Ottoman Empire was at odds with the Christian foundation of the Holy Alliance. Interpreting Christian principles to be the underlying guidelines of international relations led to a problematization of non-Christian claims to legitimacy. According to this line of reasoning, it was Alexander's 'holy duty' to intervene on behalf of the insurgents and to establish independent states in Moldavia, Wallachia and possibly Greece.

The third compatible interpretation was non-intervention. This option was indeed favored by Metternich (and Castlereagh). Metternich argued that the principles of the Holy Alliance primarily called for allied unity, 'Christian self-restraint' and the willingness to forego individual gains in the light of the greater good. Unity, even more than Christian principles and legitimate rule, was now argued to be the essence of the European order. In line with this interpretation, Metternich sought to convince Alexander that the revolution was a liberal conspiracy 'brought about by the hope of frustrating the application of the Christian principles proclaimed by the Holy Alliance' (quoted in Kissinger 1954: 289, Lowe 1993: 45). Given this character of the events and the absence of allied consent, the unity of the alliance (read ideational cooperation) was argued to take priority over immediate Russian interests. At base, the Ottoman Empire was to take care of the revolt itself.

Irrespective of these specific considerations, the Tsar had enough justification to go to war against the Ottoman Empire which had not lived up to its treaty obligations, especially with regard to the treatment of Orthodox Christians. Additionally, Russia had everything to gain from its expansion into the Balkans, save the (moral) unity of the allies. But surprisingly to many observers at the time and very much at odds with realist expectations, Alexander made allied consent mandatory for intervention and agreed to maintain peace (Schroeder 1969: 124, Webster 1925: 338) on the basis that a Russian intervention would violate the spirit of self-restraint underlying the alliance. The extensive cooperation among these three actors secured peace, while at the same time re-articulating the interpretive schemes which provided the plausibility of liberal 'rogues'. The insurgents consequently appeared as radical revolutionists and as persons at odds with the legitimate order. Liberals rebelling against Ottoman monarchical rule could subsequently be portrayed as mad and liberals more generally as being 'anti-Christian'. On this basis, Alexander actually argued that Naples had become the

'synagogue of Satan propagating anti-Christian doctrines' (see Cresson 1922: 106). This line of reasoning makes it evident that liberal states could now be located 'irredeemably' outside the international order. As such, states like Naples were attributed a quality that removed them from 'regular' politics and associated them with mental-illness and intrinsic evil (see also the reference to guilt in the preliminary protocol).

The argumentative movement at the congress therefore upheld the unity of the Holy Allies in cooperatively applying the principles of the Holy Alliance not only to Italy, but to the entirely different case of the Danubian Principalities. Political decisions were not simply deduced from once agreed-upon principles. Rather principles were interpreted in the light of specific foreign policy challenges. Meanings were continually open and dependent on re-articulation and re-interpretation in actions (on contestation, cf. Wiener 2009). The principles and norms of the Holy Alliance did not point to a straightforward course of action. In short, normative structures alone do not tell us enough to actually say something important about the events at hand as long as the appropriation of these principles and norms (by agents) is neglected.

The Congress of Laibach had thus crushed three revolutions, two by a doctrine of intervention and the third by a doctrine of non-intervention; and *both doctrines had been legitimized as the application of the maxims of the Holy Alliance* (Kissinger 1954: 289, emphasis added). But more importantly this brief episode suggests that had Russia not followed the self-restraining interpretation of the Holy Alliance, the Holy Allies would have ceased to be a relevant social entity. Given the very low degree of institutionalization, the Holy Allies were very directly dependent on their continued re-enactment. As is well known, the practices underlying the yoking process bringing forth the Holy Allies, ceased to manifest themselves over the long-run. Beginning with the broader revolution in Greece (Clogg 2002), Britain and Austria began to articulate more common ground in restraining Russia, thereby ending the close ideational cooperation between the Holy Allies. Their subsequent rapprochement signaled the eventual demise of the Holy Allies which eventually ceased to exist. As the principles of the Holy Alliance were no longer successfully championed, they lost their force. At the same time, it became possible to successfully attribute new meanings to liberalism, constitutionalism and representation of the people. The rise of nationalism in the mid-nineteenth century and the demise of monarchical rule after World War I were clearly tied to a major shift in what was thought to be conducive for peace and stability internationally.

If we take a more contemporary perspective, liberalism is now commonly associated with peace and stability at an international level (Owen 1994) rather than with *ipso facto* threat.<sup>7</sup> Scholars and decision-makers often claim that ‘democracies *are* peace-loving’ that there is something (positive) about liberal values that makes liberal states stand apart (for example, Levy 2002). To the degree that this is attributed to the intrinsic qualities of democratic norms and values, other regime types, especially those that deviate most strongly from these norms, become prime candidates for being viewed as *ipso facto* threatening (for example, Benoit 1996) and irredeemably beyond international society. The view that liberal states *qua* their intrinsic qualities are predisposed towards instability seems highly implausible about 200 years after their meaning was temporarily stabilized to the contrary. But it is worth remembering that liberalism ‘did not become the preferred form of government, widely seen as the most peaceful, until the late twentieth century’ (Finnemore 2003: 124). This major turnaround illustrates the openness of normative contexts and the centrality of the (unintentional) construction of social entities/institutions through the purposeful actions of social actors. It also underscores the argument that a positive list of criteria to identify ‘rogue states’ is misplaced (cf. Introduction and Kustermans in this volume) even in terms of the democracy vs. non-democracy dichotomy.

The historical episode introduced above describes a (yoking) process which narrowed down the range of legitimate statehood in nineteenth-century Europe. As argued, the discourse of legitimate monarchical rule, in this sense, served not only as the basis for a new cooperative order in Europe, but also as the condition of possibility to identify ‘rogues’ (on boundary drawing, cf. Corrias in this volume). Conversely one can hypothesize that more pluralistic communities are (*ceteris paribus*) less likely to lead to notions of ‘rogue states’. If we consider contemporary cases, the ‘rogue’ concept was largely embedded within U.S. foreign policy discourse and not widely shared throughout international society. As such, the salience of the concept can be attributed to the extraordinary position of the United States at the end of the twentieth century, while the reluctance of U.S. allies to widely adopt the notion foreclosed the institutionalization of a more restrictive legitimacy norm internationally. This suggests that a more solidarist international society (characterized by closer cooperation at the level of principles) might lead to an increased danger of ‘rogue states’ emerging as ‘Others’. It stands to reason that these ‘rogues’, by analogy to Naples, would also encounter difficulties in signaling benevolence through foreign policy practices. While

substantiating such a claim will require more research, the case at hand suggests that extensive collaboration is a precondition for the plausibility of 'rogue state' concepts. This problematizes the taken-for-granted valuation of cooperation in international relations in a counter-intuitive fashion in theorizing 'rogues' as an unintended possibility generated through international cooperation in the first place. Cooperation not only serves to generate absolute gains or to weaken the constraints of anarchy, but potentially makes possible a new category of international threats that would not be found in international societies with broader legitimacy standards (cf. Malici and Walker in this volume). This is not to say that international cooperation is intrinsically problematic. Such a stance would be highly questionable. But the case at hand underscores the genuinely political dimension of international cooperation, as well as the political dimension of successfully propagating principles and norms at an international level. If there is no guarantee that the outcomes of norm propagation are somehow related to the perceived goodness of the norm being propagated, then studying the implications of cooperation moves to the front.<sup>8</sup> In a nutshell, the yoking process under investigation highlights that cooperation should be treated more critically in IR scholarship, if only because the dichotomy between conflict and cooperation (or discord and collaboration) makes it difficult to ask about the ends of cooperation and the externalities involved. Cooperation, and the emergence of a normatively based 'community', also serves as a basis on which a specific 'other' could be identified. To be more precise, the constitution of social entities and the establishment of 'they' relations were two outcomes of the same process. The focus on deviance therefore not only serves to understand the outsider, but is 'key to understanding a society's norms and values' (cf. Introduction). This should generally warn constructivists against the uncritical assumption that cooperation or the spread of particular norms (as a special case of cooperation) could lead to universal goods. This is certainly not an argument against a normative dimension of IR theory. Rather pluralistic approaches to international society involve a normative commitment which weighs the merits of ideational unity against the potentially detrimental effects of collaboration which not only serves to resolve specific foreign policy issues, but potentially intensifies conflict at the level of basic values.

### **Conclusion: practice and 'de-rogueization'**

This chapter historicized and de-naturalized 'rogue states' by discussing how liberal 'rogue states' emerged through a process of great power



cooperation that drew on a shared articulation of specific international principles of legitimacy. Interestingly, these articulations were not substantiated by a shared conviction or deep internalization of norms. Quite to the contrary, the narrative rather suggests that most of the key actors displayed a high degree of strategic thinking in their approach to foreign policy challenges. But rather than opting either for the primacy of utility maximization or the primacy of a logic of appropriateness (March and Olsen 1989), this chapter argues that legitimacy standards and practices of justification are central to understanding international processes apart from the convictions decision-makers hold. In short, meanings are not anchored in subjective beliefs, but rather they are continually fixed at an intersubjective level (cf. Kustermans in this volume). Conversely, the possibility of liberal 'rogue states' (in the light of the possibility of 'illiberal rogues' in the twentieth century) underscores that the concept of 'rogue' is a relational one (on processual-relational thinking, cf. Linklater 2012) that cannot be anchored in the intrinsic qualities of the respective 'rogues' themselves. Rather the concept of 'rogue state' is inseparably tied to the successful articulation of specific standards of legitimacy within a society of states. In this case the interpretation of the principles of the Holy Alliance in conservative terms made it possible to come to an understanding of liberal states as threatening to international relations 'by their nature'. It was possible to show how a discursive link needed to be continually established between liberalism/constitutionalism and threat, between revolution and criminality, madness and evil which removed Naples from 'ordinary power politics'. At the same time these political processes were presented, and arguably understood as an outflow of 'eternal truths' (Kissinger 1954: 283), not primarily as unintended outcomes of processes involving acting persons. The short career of nineteenth-century liberal 'rogues', which was related to the low degree of international institutionalization, underscores this argument. If meanings are temporarily stabilized through practices, then 'de-rogueization' might begin with changing these practices (cf. Malici and Walker in this volume). While a truism at a certain level, things might not be so simple. Three major problems come to mind. For one, prolonged interaction on the basis of a 'rogue' logic might lead the alleged 'rogues' to incorporate these ascriptions into their own self-understanding (on a related logic, cf. Elias and Scotson 1990), thereby stabilizing the 'we-they' relation. Jennifer Mitzen's arguments on the conflict prolonging tendencies of a continual search for ontological security point in a similar direction (2006). Second, 'rogue' policies may actually lead to a situation in which

the interests of alleged 'rogue states' come to tilt against the normative underpinnings of the 'rogue' policy (cf. Bucher 2012). That is, contemporary 'rogues' may actually perceive democratic movements in third states as being opposed to their interest not because there is a deeper incompatibility between democracies and their own domestic structure, but because the prospects of democratization open the door for these states to align with other democracies. Such developments may then be detrimental to the 'rogues' relative power position (Whitehead 1996). Third, domestic political stakeholders in 'rogue states' may come to be able to utilize the 'we-they' scheme articulated by others to secure rule at home. This may entrench rivalries and possibly exacerbate international conflict. In the light of these considerations, it might be more difficult to extract oneself from a 'rogue' policy than changing terms (Marquis 2000). But as outlined above, the empirical study underscores that meanings and social entities need to be continually fixed through practices. This not only suggests further critical reflection in regard to the longstanding privileging of change over stability in social constructivist research. In terms of 'de-rogueization' this finding gives rise to careful optimism despite the difficulties 'de-rogueization' processes might encounter.

## Notes

1. Illiberal domestic structures do not serve as sufficient conditions for 'rogueization', but both foreign-policy decision-making and scholarly debates take for granted that being a rogue and being illiberal go hand in hand.
2. Present-day Opava, Czech Republic.
3. Present-day Ljubljana, Slovenia.
4. On the role of the military leadership see Romani (1950).
5. Representative governments were defined as admitting 'an assembly more or less numerous, formed by elections more or less general, deliberating upon questions of state without distinction, and announcing its opinions by means of a parliament and formal addresses' (Schroeder 1969: 77).
6. As such, liberal elements could not be tolerated even if introduced by the legitimate ruler.
7. The potential rogues of the nineteenth century eventually became strong norm creators. On the notion of rogues as possible norm creators see the chapter by Wunderlich.
8. The Christian-monarchical principles of the Holy Alliance called for self-restraint and brotherly conduct among monarchs, and peaceful and cooperative international relations. The fact that the policies which arose from these principles were characterized by a strong dichotomizing tendency should warn against evaluating policy on the basis of the alleged value of the underlying norm and principles.

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# 5

## A 'Rogue' Gone Norm Entrepreneurial? Iran within the Nuclear Nonproliferation Regime

*Carmen Wunderlich*

### **Introduction**

Research on norm diffusion has given close attention to agency-based accounts by highlighting the role of norm entrepreneurs for bringing about normative change (cf. Finnemore and Sikkink 1998, Florini 1996, Keck and Sikkink 1998, Nadelmann 1990). The concept of 'norm entrepreneurship' is commonly used to describe the do-gooders of the world, 'principled agents' (Finnemore and Sikkink 1998: 869) who selflessly commit themselves to work for the steady civilization of humankind. Yet, as this chapter will argue 'the "bad guys" [...] also know quite a lot about norm creation' (Ehrenreich Brooks 2003: 2326–27).

Existing empirical accounts remain restricted to analyzing norm promoting activities of standardized, Western, liberal norm entrepreneurs promoting seemingly 'positive' norms derived from the same cultural contexts. Such a limited perspective implies that norm diffusion is simply the universal spread of Western, liberal notions of how a normative order should look. Critical constructivist and poststructuralist research strands aim to transcend such a universalist perspective by pointing towards the fundamental ambiguity and continuous contestation of norms (Bob 2012, Sandholtz 2007, Wiener 2008), acknowledging the downside of norms as reifying prevailing power structures (Adler-Nissen 2014, Epstein 2012a, b, Towns 2012) or generating unintended consequences leading to the subversion of given norm structures (Heller et al. 2012). In line with these approaches, the chapter seeks to critically reflect upon the constructivist research on norms by applying the notion of norm entrepreneurship to supposed 'rogue states', thus breaking with the vast majority of constructivist norm studies that have silently reserved this term to liberal, Western actors promoting allegedly

'good' norms. By focusing on 'rogue states' as entrepreneurs rather than as subjects of hegemonic intervention, I explore to what extent constructivist scholarship has been limited by the biased selection of cases and add insights to emerging constructivist-inspired scholarship on deviance in IR (Herring 2000, Homolar 2011, Malici 2009, this volume). My aim is to advise against a normatively biased approach to norms: One and the same norm may have beneficial consequences for some, but may cause detrimental effects to other people. Eventually, what is 'good' and 'bad' is not an objective decision, but a matter of judgment. Thus, we might be sympathetic to some norm entrepreneurs, but should not disregard actors whom we dislike but who are norm entrepreneurs nevertheless. By focusing on 'good guys' only, mainstream norm studies neglect insights into the contentious nature of norm dynamics and the ambiguous involvement of norm challengers therein (but see Bob 2012, Wunderlich et al. 2013).

The chapter proceeds as follows: the next section gives a brief overview of the concept of norm entrepreneurship in IR with a special emphasis on the normative bias inherent to the concept's application by mainstream norm studies. So far it has remained restricted to analyzing actors engaged in the promotion of supposedly 'good' norms and working towards reproducing or incrementally reforming the prevailing normative order. Yet, as I will argue in the third section, as 'agent[s] of social change' (Björkdahl 2002: 45), norm entrepreneurs especially feature an oppositional stance to, express dissent from, and advocate a more or less radical change of the prevailing normative order. According to the relationship to existing norm structures, I suggest differentiating between various modes of norm entrepreneurship. Particularly, I highlight that norm entrepreneurship is not only deployed by 'progressive' reformers, but also by actors that challenge the existing normative structure. Such a distinction makes it possible to go beyond the usual suspects (standard liberal norm entrepreneurs) and even conceptualize so-called 'rogue states' as norm entrepreneurs as is illustrated by the example of Iran within the nuclear nonproliferation regime (fourth section). Finally, the chapter concludes with a reflection on what follows from the possibility of 'roguish' norm entrepreneurship for constructivist scholarship on norms and sketches possible avenues for further research.

### **A shortcoming: norms and norm entrepreneurs through rose-colored glasses<sup>1</sup>**

When ideational phenomena such as norms and ideas were first introduced into the theoretical debates of IR, social-constructivist



approaches sought to define boundaries toward rationalist approaches by empirically demonstrating the efficacy of norms.<sup>2</sup> Meanwhile, a sound research program on norm dynamics has been established and concepts such as 'international norms', 'norm diffusion' or 'norm entrepreneurs' gained a foothold in IR.<sup>3</sup>

In agency-based explanations, so-called norm entrepreneurs figure as the main driving forces for norm diffusion processes by intentionally and purposely suggesting 'new' ideas in order to change the existing normative order. In fact, norm studies borrowed the concept from legal scholar Sunstein, denoting 'people interested in changing social norms' (Sunstein 1996: 909), and henceforth connoted it with the more normatively loaded sociological notion of 'moral entrepreneurship' (Nadelmann 1990) characterizing 'crusading reformer[s]' who hold 'an absolute ethic' (Becker 1963: 147) and strive towards combating supposedly 'evil', deviant behavior.<sup>4</sup> Empathy and altruistic motivation figure as the main traits of a norm entrepreneur, although some scholars stress that, in reality, an actor may be motivated by a complex mix of self-interest and norms (Björkdahl 2002: 48, Klotz 1995).

Accordingly, the concept was initially applied to (philanthropic) individuals and transnational advocacy networks such as non-governmental organizations, political foundations, trade unions, the churches and epistemic communities (Finnemore 1996: 73–85, Finnemore and Sikkink 1998: 896–97, Haas 1992, Klotz 1995). Only recently has research shifted attention to governmental actors such as individuals serving in international organizations, for example the UN Secretary General (Johnstone 2007) or state officials/bureaucrats (Blavoukos and Bourantonis 2011), as well as private-sector actors such as transnational corporations (Flohr et al. 2010, Sjöström 2010). States were long depicted as norm *receivers* only, but meanwhile a sound body of literature focuses on their norm entrepreneurial activities. While most of these studies tend to focus on small and middle powers (Becker-Jakob et al. 2013, Björkdahl 2002, Ingebritsen 2002) whose political culture is seen as a proxy for altruistic norm advocacy, recently attention shifted towards inquiring the possibility of great power norm entrepreneurship (Fey et al. 2013, Job 2006).

Usually, norm entrepreneurs are described as actors committed to certain ideas or causes they identify as a means for improving the prevailing normative order (Johnstone 2007: 126). As 'agent[s] of social change' or 'problem-solver[s]' (Björkdahl 2002: 45), norm entrepreneurs bring a problem to public attention, signal need for action, provide information and expertise, suggest possible solutions and try to get their idea accepted as a new standard for behavior. In order to persuade the

public of the appropriateness and necessity of the propagated norm, norm entrepreneurs engage in processes of strategic social construction for example by using striking language and creating scandals in order to draw attention to their cause or using 'manipulative' practices such as blaming and shaming (Adut 2004: 530, Finnemore and Sikkink 1998: 869, Keck and Sikkink 1998, Risse et al. 1999, Simon and Martini 2004: 132). Various strategies are aimed at changing the norm addressee's – mostly states – preferences and to recruit norm followers, such as 'strategic use of information, symbolic politics, leverage politics and accountability politics, issue framing and shaming' (Finnemore and Sikkink 2001: 401). Often, norm entrepreneurs draw on 'organizational platforms' (Finnemore and Sikkink 1998: 899), be they transnational advocacy networks or alliances of like-minded states established for the sake of norm promotion, or international organizations and regimes providing information channels and structural or economic resources (Björkdahl 2002: 50, Finnemore 1993: 595, Koh 1998). It is foremost within institutionalized structures that norm entrepreneurs create conditions for communicative action which – according to the logic of arguing – may eventually lead to the breakthrough of the 'better argument' and thus a norm's codification, implementation and enforcement (Deitelhoff 2009). Although mainstream norm studies have overemphasized the norm *initiating* function of norm entrepreneurs, empirical accounts demonstrated that 'norm advocates' (Deitelhoff 2006: 252) are also indispensable for promoting, maintaining, enhancing, and enforcing norms (Finnemore and Sikkink 2001: 401, Johnstone 2007: 124). As norms are contested by default, continuous agency is needed for the consolidation of the prevalent normative structure and to defend it against norm challengers. In order to get their ideas on the way, norm entrepreneurs consistently engage in maintaining and enhancing a contested or otherwise endangered norm or – 'activate' a certain norm in situations where competing norms might apply (Ruble 2008: 426–27). As norms and their meaning are always subject to contestation, a broad universe of 'meaning entrepreneurs' is conceivable as actors that persistently try to persuade other actors of the formal validity of their vision of how the normative order should look like (Koh 1998: 649–51).

While the literature on norm entrepreneurship has broadened its scope to engage with individual as well as collective actors, and began to question their purely altruistic motivation as compared to a strategic rationale and moved away from the narrow focus on norm entrepreneurs' initiating function, some shortcomings still remain inadequately addressed. In line with the focus of empirical norm

studies on a limited set of 'positively' assigned, Western, liberal norms, the label 'norm entrepreneur' is usually applied retrospectively to actors advocating Western, liberal norms in norm diffusion processes that worked (for a critique, cf. Ehrenreich Brooks 2003: 2325–8, Posner 1997: 365–266). Commonly, norm literature tends to analyze 'amiable' norm entrepreneurs, while leaving aside the 'bad' or opposing one (for notable exceptions, cf. Adamson 2005, Bob 2012, Lynch 2006). If states are analyzed at all, scholars have largely focused on countries whose history, foreign policy behavior, or political culture qualify them to act as promoters of 'ethically good' or liberal-democratic norms (Green Cowles 2003: 110). Overall, the focus on norm entrepreneurs as 'forces for good' implies a romanticized version of world politics that glosses over the fact that norm entrepreneurship itself is a highly contested business (but see Bob 2012).

Building on recent critical approaches, in the next section, I suggest overcoming the progressive bias of norm studies by abandoning a monochrome perspective on norms as either 'good' or 'bad' and differentiating between various types of norm entrepreneurship depending on the stance towards the prevailing normative order.

### **A suggestion: norms and norm entrepreneurs through 'neutral' glasses**

In order to overcome the progressive bias of norm studies, a twofold research program is needed: On the one hand, the universe of negatively assigned or oppositional norms is far from exhausted and norm research should enhance its effort to investigate the diffusion of supposedly 'bad', oppositional or nonliberal norms in order to get a more comprehensive picture of the norm dynamics underlying international politics. However, 'by definition, there are no bad norms from the vantage point of those who promote the norm' (Finnemore and Sikkink 1998: 892). What is 'good' or 'bad' is not a matter of fact but a matter of opinion. Thus, norms should be analyzed through the perspective of the actors involved. The same applies for the notion of norm entrepreneurship, as Mertus (2000: 560) correctly remarks: 'Those seen as breaching sovereignty norms may be viewed positively as "sovereignty-free actors", "trans-boundary entities", and "norm entrepreneurs" or they may simply be called "international law-breakers".' A limited focus on liberal, Western norms and respective actors obstruct insights into the ways actors try to impact on the normative structure and obscures the fact that the concept of norm entrepreneurship is not only able to

account for 'progressive' norm evolution, but also norm contestation and opposition to or resistance against the prevailing normative order.

In this vein, an increasing number of studies aim to fill these gaps. Fiona Adamson criticizes a focus 'on the actions, discourses, beliefs, and strategies used by liberal actors promoting liberal norms in the international system' (Adamson 2005: 547) grounded in the dominance of a system-level ideological structure of global liberalism within which most of the scholarly literature on norms is embedded. She identifies political Islam as liberalism's main contender and illustrates her point by analyzing 'Islamist' as opposed to liberal-Western norm entrepreneurs entering Central Asia after the end of the Cold War. The neglect of the phenomenon of norm resistance ignores that norm entrepreneurs at times might also work against established norms in order to get their ideas accepted by using destructive or destabilizing activities that challenge the legitimacy of the existing normative order. In his groundbreaking book, Clifford Bob shifts the focus to 'rival activism in civil society' and analyzes the clashes of transnational advocacy networks focusing on 'retrograde' movements' embarking upon 'unsavory, negative strategies aimed at dissuasion' (2012: 3, 5–6). As politics are contentious by default, he argues that norm advocacies always interact with rival actors and in order to get their ideas accepted not only deploy constructive (policy making), but also destructive (unmaking) ones intended to sabotage their rivals' aims.<sup>5</sup> In a similar vein, albeit not taking recourse to the concept of norm entrepreneurship, Heller et al. (2012: 292) argue that 'norm challengers' actively work to undermine norms which they deem obsolete or in conflict with the norm propagated by these actors.

Norm advocacy for an idea they deem appropriate may thus at times demand norm entrepreneurs to promote norms that ultimately lead towards the erosion of the prevailing normative order or to embark upon destructive strategies (as opposed to constructive ones).<sup>6</sup> Consequently, norm entrepreneurs should not only be conceptualized as 'agent[s] of social change' (Björkdahl 2002: 45) but also as *agents of contestation* who are characterized by taking on an oppositional stance towards, articulating dissent from, and promoting a more or less radical modification of the existing normative order.

While norm entrepreneurship is generally marked by challenging the prevailing norm structure and articulating alternative rhetoric/political agendas and actions, it might be apt to distinguish between various types of norm entrepreneurship depending on the actors' attitude towards the existing normative order (Wunderlich et al. 2013: 246–49): Although being embedded within the boundaries of existing norm structures,

*reformist* norm entrepreneurship aims at its modification in the sense of adapting it to new or changed demands. Such an incremental approach may generate small shifts in emphasis and interpretation of norms, but it is usually progressive in nature, aiming towards the further differentiation of the existing order in the sense of enhancing its efficacy. There might also be actors who challenge the existing normative order but oppose progressive change. Instead, their norm entrepreneurship is 'regressive' in nature and aimed towards leading the existing order back to its 'original' meaning. Such backwards oriented norm entrepreneurship might be labeled as 'norm *renovation*'. *Revolutionary* norm entrepreneurship, in contrast, aims at the overthrow of the prevailing system and the establishment of a new order that defines clear boundaries from the overthrown one. Revolutionary norm entrepreneurs refuse to play by the rules of the system which they see as 'an unequal, oppressive, and immoral structure of international authority, devised by the established powers in their own interests' (Armstrong 1993: 1). Thus, revolutionary norm entrepreneurship ties in with Bob's (2012) research on rival networks deploying mutually influential counter-strategies: in order to strengthen their normative vision, revolutionary norm entrepreneurs might particularly aim at undermining the authority and legitimacy of the existing normative order. They may thus frame their strategies in reaction to the protagonists of the current system, promote for example their different interpretation of norms and strategically create counter-frames, poaching norm supporters or create their own organizational channels. What denotes revolutionary norm entrepreneurs from mere norm adversaries, is the component of 'creative destruction'; their norm entrepreneurship exceeds mere resistance against the prevailing order by demanding the establishment of an alternative norm system. In this sense, revolutionary norm entrepreneurs resemble the type of 'moral entrepreneur' envisioned by sociology's ancestor of the concept of norm entrepreneurship, Howard Becker. He described norm advocates as 'crusading reformers' (Becker 1963: 148), actors holding an absolute ethic and keen to combat threatening social evil by all necessary means. Interpreting their mission as a holy one, 'they truly believe that their cause is just, and pursue it with fervent self-righteousness' (Muzzatti 2002).

### **A consequence: envisioning 'rogue states' as norm entrepreneurs**

Notwithstanding inconsistencies in application and conceptual fuzziness (see Introduction to this volume), 'rogue states' are commonly

depicted as outsiders to the group of 'decent states' who are not willing to abide by the central rules of the prevailing normative order and often take on extremist positions to show their dissent (*inter alia*, cf. Lake 1994, Litwak 2012). Commonly, 'norm-breaking' is regarded as their main characteristic both regarding the form of government, policy goals and instruments to reach them (Nincic 2005: 18). It is their 'rejectionist attitude towards the norms of the international community' (Wendt 1998: 113) that sets 'rogues' apart from the rest of international society – and accounts for them being labeled as 'outlaw' or 'pariah' states synonymously. Indeed, the indicators identified in the literature on 'rogue states' converge around the violation of four basic norms: human rights violations, the support of terrorism, the pursuit of weapons of mass destruction (WMD) and territorial aggression (cf. Introduction to this volume). Some authors even go so far as to assume those states to be '*anomic*, unsavory, and troublesome places' (Rotberg 2007: 8, emphasis added). Likewise, 'rogue states' are assumed 'not [to] play by the rules of rationality' (Malici 2009: 39, cf. the notion of 'crazy states' used by Dror (1971) or the common allegation by U.S. and Israeli officials that Iran is dominated by 'Mad Mullahs') which renders their behavior unpredictable and thus justifiable to anticipatory preemptive measures (Homolar 2011, Senn 2009). Understanding 'rogue states' as irrational and regressive actors implies that they do not have a clear objective other than destruction. Understood in this sense, the conception of 'rogue states' bears close resemblance to Kant's 'unjust enemy' (cf. Müller forthcoming for a comparison) and if used as a policy tool may ultimately result in justifying 'extraordinary' measures to prevent what is depicted as an 'evil' threat to international society.

In conclusion, irrespective of which actors are designated as 'rogues', while scholars and policy-makers alike do not get tired of emphasizing 'rogue states' norm deviance, there is a lack of empirical studies inquiring into the normative orientations actually guiding the behavior of the culprits. To be sure, this is not an attempt to exculpate states outrageously violating international law by means of brute force. However, norm studies miss a great piece by neglecting alternative norms and norm entrepreneurs with their progressive bias. The claim, that 'rogue states' first and foremost aim at *destroying* the norms of the international community does not withstand practical scrutiny. Instead, it is hypothesized here, that behind their rejectionist attitude a serious effort to establish (alternative) norms might be found. Only the norms they deem appropriate may not fit in a scholarly tradition coined by Western political thought. As has been noted many times, consensus

on core norms is restricted to a rather small part of the international society, thus 'the defied norms were those of restricted subsets of global society' (Nincic 2005: 11). It is thus vital to inquire into the potential of those states that show dissent towards and express opposition to what they perceive to be an unjust, hegemonic international system – a conduct that accounts for them being stigmatized as deviant 'rogues' in the first place. Whether 'rogue states' take on the role of a norm reformer, renovator, or revolutionary – or act as norm entrepreneurs at all – thus also sheds light on and challenges the constructedness of the label itself. As has been emphasized particularly by critical constructivist approaches, being a product of (strategic) social construction, the 'rogue' label primarily serves as a means to maintain the prevailing power structure (*inter alia*, cf. Homolar 2011, Hoyt 2000, Senn 2009). Elizabeth Saunders (2006: 23) argues that by designating the term, the United States 'successfully' acted as a norm entrepreneur defining the boundaries of international society and mobilizing public support for harsh policy measures. By labeling some countries as 'rogue states', the labeling actor already heads for a confrontation thus blocking certain courses for (future) action. Using the 'rogue' metaphor usually engenders a more hostile policy, directed towards the future containment of the alleged threatening state, allowing for preemptive use of military force that is often aimed towards regime change (see the doctrine of counter-terrorism following 9/11 and the 'axis-of-evil' speech).

Hence, the following section presents findings from a case study inquiring into the normative entrepreneurial potential of the Islamic Republic of Iran,<sup>7</sup> which has consistently been labeled as a 'rogue state' by various U.S. administrations<sup>8</sup> and possesses the main criteria to be considered a 'rogue': continued human rights violations, support of international terrorism and striving to obtain or already having acquired WMD capabilities in breach of international norms.

### **An illustration: Iran's quest for a reversion of the nuclear nonproliferation regime**

Over the past years, public attention has repeatedly focused on Tehran's controversial nuclear program, which supposedly aims at building a nuclear threshold capacity. Public and scholarly attention usually focus on the norm-violating activities typical for a 'rogue state' such as Iran.<sup>9</sup> Yet a closer look at its normative position within the nonproliferation regime reveals a broader, more complex picture.<sup>10</sup> Results of a qualitative content analysis of Iranian statements uttered at review and preparatory

conferences of the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) indicate that Iran has steadily and consistently advocated the strengthening of regime norms, particularly nuclear disarmament, the adoption of legally binding security guarantees as well as protection measures against potential WMD attacks, and demanded equal access to technology, equal sharing of burden and non-discriminatory procedures.

Iran first and foremost engaged in 'normative argumentation' as is shown by recurring argumentative clusters linking the fostered norms with notions of (in-)justice.<sup>11</sup> While framing the propagated norms in legal parlance may indicate a strategic rationale in order to recruit followers particularly from the states of the non-aligned movement (NAM) receptive to fairness issues and ultimately allude to an aspiration for regional and international status, talking justice may also illustrate an ideational commitment motivating Iran's actions. Overall, Iran's approach to arms control is influenced by its perceived role as an advocate of the developing countries fighting against all forms of discrimination and (Western) domination (Wunderlich et al. 2013: 263–72).<sup>12</sup>

Indeed, Iran's norm advocating activities are aimed towards the leveling of rights and duties between non-nuclear (NNWS) and nuclear-weapon states (NWS), particularly the United States. This is most evident regarding Tehran's emphasis on what it perceives to be the original bargain within the NPT. Accordingly, the disarmament obligation of the NWS is regarded as tit-for-tat for having abandoned a nuclear-weapon capability: 'The non-nuclear-weapon States Parties to the Treaty had accepted the division of the world into nuclear-weapon and non-nuclear-weapon States only on condition that the nuclear powers committed themselves to effective nuclear disarmament measures' (Fartash 1975: 47, see also Fartash 1980: 119). In accord with NAM demands, Iranian delegates repeatedly called for the total elimination of nuclear weapons and, to this end, also pushed for the creation of new norms such as issuing a UN Resolution demanding the establishment of a Nuclear-Weapon-Free-Zone in the Middle East or a Nuclear Weapons Convention (cf. Ameri 1980, Velayati 1995). The objective to overcome discrimination might also motivate recurrent demands to extend the safeguard system to peaceful nuclear activities of the NWS (cf. Nasserri 1990: 18).

Iran insists upon its 'inalienable right [...] to nuclear technology for peaceful purposes without discrimination' (Peaceful Research, Production and Use of Nuclear Energy: Working Paper Submitted by the Islamic Republic of Iran (NPT/Conf.2010/WP.53) 2010: 1) and regards unhampered technological cooperation as of utmost importance: 'One of



the gravest injustices committed by the nuclear-weapon states is equating nuclear arms with nuclear energy. [...] [T]hey want to monopolize both nuclear weapons and the peaceful nuclear energy, and by doing so to impose their will on the international community. The aforementioned issues are all against the spirit of the NPT and in flagrant violation of its provisions' (Ahmadinejad 2010: 4, cf. Kharazzi 2000: 4, Nasser 1990: 19). Consequently, Tehran insists upon its legitimate right as a NPT member state to maintain a self-sufficient nuclear program and mastery of the full fuel cycle without restrictions – including a right to uranium enrichment. Export control measures such as the Nuclear Supplier Group are criticized for being discriminatory instruments of the West aimed at preventing the economic and technological progress of developing countries: 'The ad-hoc parallel and non-transparent regimes, acting in defiance of the letter and spirit of the Treaty, continue to pursue subjective, arbitrary and discriminatory policies' (Kharazzi 2000: 4).

Claims to justice are also applied to the 'discriminatory nature' of the NPT regime itself – both the 'imbalance in the pillars of the NPT' and 'double standards' applied by the NWS regarding the biased interpretation of core NPT norms (*inter alia*, cf. Dabiri 1980: 120). Trade arrangements with non-NPT members such as Israel and India are condemned particularly as 'irresponsibility displayed by the nuclear-weapon States' (Shahabi Sirjani 1985: 181) and it is feared that 'the power-centered states will continue, in future, to exploit the Treaty in order t[o] [sic] impose their discriminatory policies concerning the Treaty on others' (Velayati 1995).

Overall, Iranian delegates use a harsh rhetoric to underline the urgency of the grievances and actively engage in shaming and blaming the nuclear weapons states – particularly the United States – for not living up to their disarmament obligation and imposing undue restrictions upon the non-nuclear weapon states while favoring non-NPT states such as India or Israel: 'The IAEA has been putting the most possible pressures on non-nuclear weapon states under the pretext of proliferation risks, while those having nuclear bombs continue to enjoy full immunity and exclusive rights' (Ahmadinejad 2010: 5).

When it comes to the applied means and strategies, Iran, resorts to both what might be labeled classic norm entrepreneurship as well as taking a more oppositional stance aimed at a more or less radical change of the existing normative structure. Iran seems to be torn between leading the existing normative order back to what is seen as the original, correct interpretation of norms, and an upheaval against existing structures for which purpose it refuses to play by the rules of the system. Feeling

betrayed by the NWS and rejecting Western hegemony, Iran from time to time transcends a reformist opposition and adopts a confrontational, even obstructive posture. Iranian delegates often apply rather destructive strategies, engage in confrontational moves and consciously strive to undermine a regime that is deemed unjust and partisan. Such strategies 'are deployed not in spite of, but because of the antagonists deep commitment to ethically charged if antithetical goals' (Bob 2012: 34). In order to persuade possible norm followers of the validity of the propagated norms or the valid interpretation of a given norm's meaning, Iran seems to work towards an upheaval of the system with the constructive objective of establishing an alternative order, based on the proper interpretation of the old one. Therefore, Iran initiated a range of measures that were supposed to counter-act the efforts by U.S. President Obama on 'Global Zero', such as the hosting of nuclear security summits in 2010 and 2011 or outreach activities geared towards civil-society groups.<sup>13</sup> At NPT conferences and in informal negotiations with its fellow NAM colleagues, Iran often refuses to play by the rules, abandons and undermines negotiations, seems prepared to risk successful outcomes and apply a variety of confrontational strategies ranging from procedural stalling techniques, repetitive interventions to intentionally offensive language, particular pertaining to Israel. Iran is often not willing to deviate from its principles. Its numerous references to issues of (in-)justice have to be seen in line with this principled approach. Framing perceived grievances in legal language serves a twofold objective: as it resonates with values emanating from Shia Islam it guarantees domestic support and it appeals the deeply ingrained sentiment of historic injustice felt by most NAM countries.

In sum, however, the revolutionary attitude of Iran's norm entrepreneurship is only one side of the coin. Despite destructive strategies and harsh rhetoric, ultimately, its norm advocacy is deeply embedded within the prevailing normative order of the nuclear nonproliferation regime and aims at what Tehran regards to be a revision according to its own normative agenda. At times this prompts Iranian delegates to block progress while adamantly advocating what it perceives to be the proper meaning of regime norms. Apparently, the various modes of norm entrepreneurship should not be considered as mutually exclusive categories, but rather as representing a continuum: activities deployed by Iranian delegates may be shaped by more or less revolutionary attitudes. Yet, revolutionary rhetoric notwithstanding, Iran works actively within established regime structures, occasionally contributing to their evolution in terms of effectiveness. Simultaneously, the country departs

from a reformist approach through its more radical, uncompromising attitude. As has been noted elsewhere, it rather seems appropriate to qualify Iran as a 'fundamental norm renovator that strives for a return of the current normative order to its supposedly pure and true origins' (Wunderlich et al. 2013: 272).

## Conclusion and implications

In line with critical and poststructuralist approaches that highlight the contested nature of norms and stress the normative pitfalls inherent to mainstream studies, this chapter set out to critically reflect upon constructivist research on norms by applying the concept of norm entrepreneurship to 'rogue states'. Such a rather counter-intuitive endeavor became possible by thoroughly re-examining the concept's original meaning, proving the 'progressive' bias inherent to its application by mainstream norm studies and suggesting a reformulation that differentiates between various modes of norm entrepreneurship. Such an approach is based on the requirement to leave the dichotomous distinction between 'good' and 'bad' meanings of norms. Instead, it was argued, norms should be analyzed through the lens of the actors involved: from the perspective of a norm advocate, there can only be 'good' norms (Finnemore and Sikkink 1998: 892). Consequently, the sole focus on Western, liberal norm entrepreneurs promoting supposedly 'good' norms constrains norm studies from adequately capturing the complex process of norm dynamics – marked by interactive contestation and negotiation processes. As 'agents of contestation', norm entrepreneurs are foremost characterized by their opposition to the prevailing normative order and the articulation and active promotion of an alternative normative vision. They may, however, be differentiated as to their stance towards the current structure. While *reformist* norm entrepreneurs aim towards a 'progressive' change of the prevailing order within the boundaries of existing rules and structures, norm *renovators* strive to lead the normative order backwards to what they perceive to be the 'true', 'original' version. *Revolutionary* actors see salvation only as an upheaval of the system and the establishment of a new order in line with their normative preferences. As was demonstrated in the third section, although not accounted for in the research on norms, understood in terms of reformist, renovating and revolutionary agency, the concept of norm entrepreneurship may be applied to 'rogue states'. As far as the substance of the promoted norms within the nuclear nonproliferation regime is concerned, Iran was identified to take on the role of a *norm*

*renovator*, who overwhelmingly advocates a return to what it perceives to be the originally intended meaning of core NPT norms while being embedded within the prevailing normative order. Even though more detailed research on other non-standard norm entrepreneurs needs to be done, this finding suggests a range of implications, both for constructivist theorizing on norms and the policy oriented literature on 'rogue states'.

The main implication relates to both fields and builds on poststructuralist approaches to norms that consider the so far inadequately acknowledged power dimension inherent to norms and expose the potential of norm research to stabilize prevailing power structures (Epstein 2012a: 136, Towns 2012, Widmaier and Park 2012: 131). By defining (universally valid) standards of appropriateness and setting intersubjective expectations, norms serve as tools to stabilize an existing normative order. 'Rogue states', by definition, are not seen as legitimate members of this order. As the prevalent normative structure tends to favor its most powerful inhabitants (who had a great stake in the shaping of the order itself), 'deviant behaviour is not identified by wholly objective criteria since, even if abstract norms are widely agreed upon, considerable scope remains for subjective assignment of the label "deviant" to *specific* sorts of conduct [and actors]' (Nincic 2005: 21). The notion of 'rogue states' as perceived and strategically deployed by the United States displays certain characteristics that primarily function to stabilize the very idea of an international community, based on universal values and common interests. The stigmatization ultimately serves to draw boundaries between 'us' and 'them' connoting the notions of 'good' and 'evil' respectively, and functions as a mechanism of delegitimizing – and even criminalizing – differing notions of how the normative order should look like. The labeling may ultimately even become a self-fulfilling prophecy as it prompts the stigmatized state to behave (even more) 'roguish' (Malici 2009). As a corollary of them not being recognized as legitimate members of the international community, 'rogue states' are denied agency and thus essentially excluded from influencing rational discourse (thus precluding the 'ideal speech situation' as conceptualized by constructivist research on communicative action which requires non-hierarchical relations among the participants of the discourse, see Risse 2000). This practice of constructed deviance is supported by the limited selection of ideal-type norm entrepreneurs by research on norms which may be charged of 'complicity in reproducing the very structure it purports to be studying' (Epstein 2012a: 138). If confronted with the one-sided portrayal of 'rogue states' as norm violators only, the finding of 'deviant' norm entrepreneurs once

more underscores the constructedness and instrumentality inherent to the usage and application of the label. Analyzing the norm entrepreneurial potential of 'rogue states' thus questions the appropriateness of the label itself. If 'rogue states' appear as normative actors, pursuing their own normative agenda, policy implications addressing especially Western countries claiming normative hegemony, are inevitable. At least for the field analyzed here – arms control and disarmament policy – new avenues for constructive and cooperative politics should then be formulated – this time taking the potential for agency of assumed 'rogue states' seriously. It also enables to reveal 'hidden' interests and ideational driving forces of their policies that should be addressed in approaches to reintegrate these states into the global nonproliferation regime. Again, this does not mean an endorsement of any norms these states might pursue. In fact, Iran's credibility as a norm advocate for nuclear disarmament is severely hampered by its intransparent nuclear program. But taking normative entrepreneurial endeavors of oppositional actors seriously might enable the international community to truly engage with them and to enter into a fruitful dialogue. Regarding the current impasse in negotiations on Iran's nuclear file, for example, it might be worthwhile to engage Iran on its own normative commitments and hold it to Khomeini's *fatwa* prohibiting the production, stockpiling and use (but not research) of nuclear weapons as un-Islamic (cf. Tannenwald 2012).

A range of other merits are worth mentioning. Ironically, whereas norm studies tend to overemphasize the altruistic, norm-driven motivation of norm entrepreneurs to the disadvantage of interest-driven explanations, most often, 'rogue states' are depicted as strategic, yet irrational actors.<sup>14</sup> In the context of supposedly 'positive' norms, constructivists tend to overemphasize the philanthropic, norm-driven motivation of norm entrepreneurs and only insufficiently acknowledge the strategic (side-)benefits of entrepreneurial action (for exceptions, cf. Björkdahl 2002, Bob 2012, Ingebritsen 2002). Mostly, they rather emphasize the irrelevance of any strategic motivation – this holds especially true for non-state norm entrepreneurs. Alleged 'rogue states', to the contrary, are most often *a priori* under a cloud of 'rhetorical action': As illustrated by the case of Iran, the hosting of two nuclear security summits was considered to be an attempt to demonstrate a clean record regarding Iran's nuclear ambitions and to prevent another round of sanctions (Rajiv 2010). In a similar vein, most authors stress the intentionality of a 'rogue's' deviant behavior tracing it back to strategic considerations to maintain and/or solidify their domestic power preservation, for example through ideational motives (ethno-nationalist, religious,

superior political ideology) that are prone to resonate with the domestic audience and justify departing from international standards of behavior which are deemed detrimental to national normative structures (Nincic 2005: 14, 24). The possibility that their rejectionist attitude might be motivated by a serious effort to advocate alternative norms is usually discarded from the outset. However, if norm studies are right and actors benefit from adhering to international norms (both by material incentives regarding security or trade as well as ideational advantages like reputation) norm violating may not be in the primary interest of actors and thus undermine strategic calculations. 'Rogue states' behavior may thus as well follow internal ideational motives as does the norm fostering of so-called good international citizens usually identified by norm studies as ideal-type norm entrepreneurs.

This leads directly over to another implication regarding the juxtaposition of norms and interests. As has been stated above, the literature on 'rogue states' does usually not consider them to be driven by norms. If at all, interest-based explanations are put forward to explain their norm deviance (as if it was something they chose intentionally). The first wave of constructivist research on norms put special emphasis on establishing the relevance of norms vis-à-vis the rationalist notion of 'interests' and henceforth, a dichotomous juxtaposition of the two phenomena was established. Norms and interests are not, however, opposites. What an actor defines to be his or her interest is ultimately tied to the identity and the socio-normative context within which he or she operates – thus socially constructed. Vice-versa, norms may be based on rationalist-utilitarian considerations and behaving appropriately sometimes be equated to behaving in an interest-oriented way (Müller 2004, 2013). Norms and interests are deeply interwoven mutually constituting phenomena. If one leaves the distinction between 'good' and 'bad' norms aside, such a dichotomous view ceases to hold even analytical value. The norm entrepreneurship of an actor – be it a reformist, renovator or revolutionary alike – may thus be motivated by a complex mix of self-interest and normative considerations. Such questions demonstrate the innovative potential of studying 'rogue states' as norm entrepreneurs as the acknowledgment or ignorance of strategic issues appears in different light once 'good' norms are replaced by 'malign' ones.

Regarding implications for constructivist theorizing in the light of future research, the case at hand not only suggests that norm studies are wrong in their *a priori* tendency to exclude 'rogue states' – or more basically 'bad guys' – from the universe of norm entrepreneurs. Moreover, replacing the standard liberal norm entrepreneur with one

that is otherwise regarded 'roguish' once more highlights the need to overcome the 'progressive' bias of constructivist work thus far. Future research should thus apply a more neutral stance towards its subject of inquiry in order to get a more comprehensive understanding of norm dynamics and to enhance its explanatory reach. Ultimately this means paying due attention to the diffusion and demise of all kinds of norms: those leading to what from a liberal, Western perspective might be considered a 'progressive' norm evolution, but also instances of 'regressive' norm dynamics. Regarding the role of agency, the universe of possible norm entrepreneurs should be opened to include actors other than the standard, liberal norm entrepreneurs. In addition, further elaboration of the dynamics of rival advocacy (Bob 2012) and the interplay of measures and counter-measures applied by those actors is needed.

## Notes

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1. This and the following section build on Wunderlich (2013).
2. Bearing in mind the intersubjective character of norms and the fact that norms gain their meaning first and foremost through interactive negotiation processes, I follow Wiener's (2008:41) demand for a relational definition of norms (instead of the conventional structural definition as put forward by Katzenstein (1996:5) focusing on 'actors with a given identity'): Norms are considered to be historically contingent, intersubjective understandings that generate collective expectations for appropriate behavior in certain situations and thus shape (and are shaped by) actors' interests and identities. The exact meanings and practices emanating from norms, however, are subject to interpretation and contestation.
3. For recent reviews on the research on norms in IR see Hoffmann (2010) and Widmaier and Park (2012).
4. For a discussion on varying notions of 'entrepreneurship' (capitalist, social, moral, policy, norm entrepreneurship) see Pozen (2008).
5. Accordingly, Bob (2012:21–33) juxtaposes 'affirmative' and 'negative' strategies: constructing and deconstructing problems, network building and unbuilding, activating and deactivating institutions, agenda setting and unsetting, persuasion and dissuasion and promoting and demoting outcomes.
6. However in order to qualify as norm entrepreneurship destructive strategies have to be accompanied by some (constructive) efforts in creating alternative norms.

7. The case study was based on a hermeneutic, qualitative content analysis of official statements uttered at international negotiation forums on the control of WMD conducted in the framework of a larger research project at the Peace Research Institute Frankfurt (PRIF). Space constraints do not allow a detailed presentation and discussion of the analysis, which you will find in Wunderlich et al. (2013) from which the following section borrows.
8. As the supposed sponsoring of international terrorism officially serves as one of the main criteria to be labeled a 'rogue', an indicator is the U.S. State Department's list of states sponsoring terrorism, first issued in 1979. Iran has been on that list since 1984, see *Patterns of Global Terrorism*, Washington, DC: U.S. Government Printing Office; <http://www.state.gov/s/ct/rls/pgtrpt/>.
9. For an overview on Iran's nuclear policy in general see Mukhatzhanova (2010) and Ogilvie-White (2010).
10. The global nuclear nonproliferation regime can be depicted as a dense and highly contested normative framework and therefore apt for analyzing norm entrepreneurship. At its core is the Treaty on the Non-Proliferation of Nuclear Weapons (NPT). Its main pillars – nonproliferation, disarmament and peaceful uses of nuclear energy – are based on a cluster of norms, which are subject to debate regarding the interpretation of and importance attributed to particular norms by the member states.
11. That notions of justice abound in Iranian speeches seems to be grounded in Iran's political identity. According to Moshirzadeh (2007), the identity of Iran is constituted by three main discourses – independence, justice and resistance, and these basically account for the shaping of the country's nuclear policy.
12. Iran sees itself as an advocate of the NAM with whom it seeks to build alliances and with whom it shares a desire to demonstrate independence from external interference and to be recognized as an equal member of the international community. Correspondingly, the empirical analysis revealed recurrent rhetorical patterns in statements by Iranian delegates alluding to and strategically activating the strong bonds with fellow (non-nuclear weapon states) NAM countries. While attributing itself a leadership role, however, Iran's position within NAM is far from being unchallenged; disputes over Iran's suspicious nuclear program and the group's heterogeneity often generate controversy (Potter and Mukhatzhanova 2012, Wunderlich et al. 2013).
13. Background conversation with several civil society actors and NGO representatives, April 2012.
14. I owe this point to Wolfgang Wagner.

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# 6

## Dissident Foreign Policy and the (Re-)production of International Orders

*Daniel Jacobi, Christian Weber and Gunther Hellmann*

### Introduction

This chapter introduces ‘dissidence’ as a core concept of one alternative approach to the study of deviance in international politics. Its main goal is to outline a perspective that allows focusing on a particular kind of deviant foreign policy practice and on its effects on regional or global political orders. We prefer not to designate these practices as deviant, however, because that would imply a prior understanding of what qualifies as normal foreign policy behavior or a prior definition of the existing norms from which they deviate. Some of the chapters in this volume demonstrate that such an approach can indeed be fruitful. However, our specific interest in an open-ended reconstruction of dissident practices – including the question against what exactly they are agitating – requires us to leave the characterization of international norms and institutions to the texts we analyze. Why do we then speak of ‘dissident’ foreign policy and what do we mean by that? After all, quite a few other terms are used for largely the same phenomena that we want to study: States that challenge international rules are often called ‘rogue states’, ‘pariah states’ or ‘outlaw nations’. Why do we not just stick with these terms instead of introducing a new one?

The first part of the answer is that the above mentioned terms and concepts for talking about the foreign policy of states like Iran or North Korea are direct imports from political debates where they are usually deployed as discursive weapons. As analytical concepts they then seem highly problematic as they establish an easily understandable yet unreflective analogy to certain types of deviant behavior in domestic society. The ‘rogue’ is the one who cheats or who robs a bank, a criminal who violates the law.<sup>1</sup> The term ‘pariah’ refers to someone belonging to the

caste of the 'Dalits' in certain areas of India, a social outcast. Finally, an 'outlaw' is a person who is fleeing from the law, a bandit or a gangster. The most commonly used categories of 'rogue' and 'outlaw' states are especially tendentious.

Addressing a state in such a way involves the judgment that it had proven to be inherently criminal. It is not just some of its actions but the state itself that poses a problem and that has to be brought to justice. In a diffuse way, this presupposes an international legal consensus which somehow has been seriously breached by villains on the loose. As a result, there is not that much of a need for serious analysis of their claims and actions. In other words, such concepts merely repeat and affirm conventional political judgments and are therefore rather unhelpful for gaining a more differentiated understanding of the thus labeled states and their actions. Most importantly for our purposes here, speaking of 'rogues' and 'outlaws' for describing and categorizing the foreign policies of particular countries in itself obstructs an investigation of how the political elites of these countries interpret global order.

But does it really make a difference to talk of 'dissidence' instead? After all, one might object, it also is a politically charged term. This indeed is a valid criticism. Speaking of dissidents invokes the analogy to brave principled citizens rebelling against communist dictatorships during the Cold War. However, in contrast to the 'rogue' and 'outlaw' vocabulary the decision to call it dissidence involves a change in perspective that might be irritating in a productive way. This is the second part of the answer to why we consider it useful to speak of 'dissident foreign policy' instead of 'rogue states' foreign policy'. Viewing deviant foreign policies as 'dissident' does force researchers to see things from the 'receiving-end' of dominant political acts of communication. While this move certainly also implies taking hegemonic practices of labeling into account, they are not the primary object of analysis. We are more interested in analyzing the contentions of the alleged rule-breakers and in reconstructing their interpretations of prevailing norms and institutions.

Thus, studying the 'roguish view' as the editors of this volume call it, requires a thorough and open-minded 'study of primary sources'. This does not mean that researchers need to sympathize with the subjects of their study. It only means carefully exploring the logic of their actions without presuming from the outset that a dominantly invoked set of rules is legitimate and disobeying them is criminal. In other words, the term dissidence should force the researcher to block out conventional wisdom and their own specialist knowledge about how the current

world order supposedly *is* and to reconstruct how dominant norms and institutions are viewed by those who refuse to conform to them.

In order to open up possible avenues for the study of dissident foreign policy, we will subsequently flesh out some conceptual aspects of dissidence and discuss the prevailing obstacles for its study in International Relations and Foreign Policy Analysis. We will then further detail the current challenges of coming to terms with dissidence on a theoretical level and propose one possible approach. As a first attempt to highlight the empirical viability of studying dissident foreign policy, we will then outline three ideal-typical manifestations of dissident foreign policy practice. The conclusion will sum up the argument and some of its implications for the study of world politics.

### **Dissidence as a change of perspective**

In International Relations (IR), the term 'dissidence' holds a particular place in the poststructuralist tradition where it is used with a positive connotation to describe cherished scholarly practices that deviate from those of an alleged mainstream and mark a willingness to 'speak the language of exile' (Ashley and Walker 1990, Hamati-Ataya 2011). To the extent that it relates to phenomena of global politics, it refers mostly to non-state practices, for example the 'transversal dissident practices' of broader social movements as 'forms of thought and action that not only transgress, but also challenge the political order which has developed around the assertion of national sovereignty' (Bleiker 2004: 9). Poststructuralist authors tend to sympathize with these movements, as they themselves criticize mainstream IR for conceptualizing international politics as the business of nation states. State actions, in turn, are not associated with dissidence but its opposite – repression. From this perspective, government-run foreign policies maintain the existing international order and treat dissident practices 'largely in repressive terms' (Bleiker 2004: 3). The celebration of dissidence as the 'politicizing work of thought' (Ashley and Walker 1990: 263) and transversal practice from below represents one of two characteristic ways in which the discipline deals with deviant political practices. The other option is to follow political rhetoric by investigating how 'rogue states' or 'outlaw nations' can be successfully managed or effectively deterred (for example, Dueck 2006, Henriksen 2001). These two ways of scholarly engagement are indicative of a broader pattern in treating radical forms of political resistance – they are either romanticized or vilified.

The *romanticizing* treatment tends to identify or at least sympathize with the causes and objectives of deviators as much as the vilifying treatment tends to oppose or even criminalize their causes and objectives. During the Cold War, for instance, Eastern Europe's 'dissidents' easily acquired the status of heroes in West European and North American discourse because they opposed what was deemed to be, in 'Western' eyes, repressive regimes. The identification with and romanticization of Eastern European dissidents seemed all the more tempting since dissidents, such as Václav Havel, seemed to espouse typical 'Western' values, evidence to the contrary notwithstanding.<sup>2</sup>

The *vilifying* treatment, in contrast, exhibits a tendency to mark certain practices as aberrations from what is presented as a self-evidently acceptable normative order. As discussed above, the very branding of certain states as 'rogue regimes' or 'pariah states' is already an integral part of the criminalization of foreign policy practices which are regarded as unacceptable. Some political philosophers also rely on such categorizations as a prerequisite of normative theorizing. Rawls' distinction between 'liberal societies', 'decent societies' and 'outlaw states', for example, is slightly more nuanced than the usual juxtaposition of 'rogue regimes' and the 'international community'. In this case, the labeling of states as 'outlaws' seems to be more the reflection of the need in normative theory to develop criteria for justifiable actions. From Rawls' liberal universalist perspective, this would include military interventions in defense of overarching values such as human rights (Rawls 1999).

Against this background, empirical inquiries into deviance in international politics are confronted with some serious difficulties. They face the task of determining which actions diverge from the norm without slipping too easily into either a romanticizing or a vilifying value judgment. The supposition of a normative consensus that is being challenged hence obviously exerts a polarizing pull and entails the pressure of taking sides. The problem here lies with the claim that a fundamental normative consensus has been violated since this claim presupposes that it can (and has been) demonstrated that such a consensus exists. This is easier claimed than actually proven. Sociological theories of deviance<sup>3</sup> have convincingly shown that precisely the intricacies involved in the attempt of grounding contention about a presumed normative consensus which renders 'the borderline between deviance and acceptability [...] unpredictable' for both, potential perpetrators as well as detached observers (Toby 2000: 524). This difficulty may be one of the reasons why those who have been labeled 'dissidents' by observers have shied away from describing themselves in these terms. Moreover, since the spectrum between purposive evasion and



defiance of a normative consensus (which is how deviance is normally defined among sociologists, see Toby 2000: 523) is often fluid, a differentiating and dispassionate approach to the study of deviance (*and* dissidence) promises to offer new insights into a contentious subject matter that has often been delineated in accordance with well-established and thus taken-for-granted preconceptions.

Yet the most important insight which follows from this discussion is that the study of presumably dissident actions and a presumably established legitimate political order are necessarily two sides of the same coin. Analyzing dissident foreign policy in its relation to processes of ordering promises to avoid the dual pitfalls of romanticizing and vilifying dissidence by refusing to take sides and focusing instead on processes of political contention and legitimation.<sup>4</sup> In this sense, it not only reconnects dissidence with its Latin roots<sup>5</sup> but moreover recovers an important dimension of the concept as it was originally coined in the struggles over recognition of forms of religious belief that were regarded as deviant during the Reformations in the sixteenth century. Dissidents were those who 'thought differently' – 'Andersdenkende', as the German Encyclopedia Brockhaus Bilder-Conversations-Lexikon of 1837 summarized the conceptual history of 'Dissidenten'.<sup>6</sup>

Thus, the usage of the concept of dissidence in the context of international politics/foreign policy analytically dissolves a dominant assumption underlying the concept of deviance, namely that there is a particular political order 'out there' which can be readily identified and that any divergence from the latter may or may not be considered as a deviant act. While a 'dissident angle' does not in principle dispute that hegemonic or outright coercive orders might exist, it suggests inquiring into how they are actually described by opponents. This means to pose the basic question, what they themselves define to be the orders they see themselves up against.<sup>7</sup> It also means to temporarily adopt an agnostic attitude when it comes to the question of whether a particular characterization of such an order, as the analyst encounters it in a text, is true, delusional or ideological. The first task would be to seriously and dispassionately reconstruct what is actually asserted before it can be subjected to the test of internal consistency and be confronted with contrasting claims. An analysis of dissident assertions thus incorporates difference as an 'opener' at the conceptual level and not as a *post hoc* category of closure. Observing difference then helps in unpacking dominant narratives of order by sensitizing the analysis to those inherent power struggles that such narratives have already successfully obscured. Empirically, dissident foreign policy practices

can be identified by their articulation as radical criticism of norms and institutions as being manifestations of a dominant and unjust process of international ordering.<sup>8</sup>

### **Dissident foreign policy in IR and FPA**

If we conceive of international politics in processual terms and if we think of foreign policy as one of the most fundamental, boundary drawing practices constituting international order (Ashley 1987), the study of dissident foreign policy practices and the study of processes of reproduction and transformation of global orders are two sides of the same coin. In International Relations theory and Foreign Policy Analysis (FPA) this is a much neglected approach. To be sure, many historically and sociologically informed studies have analyzed processes and conducive conditions of change in political order on a macro-structural level (Osiander 2001, Teschke 2002). However, little systematic research has been conducted about the potential of dissident foreign policy practices to fundamentally challenge global constellations of power and rule (for exceptions, see Nexon 2009, Tilly 1990, 1985). Given the transformative potential of such practices, it is quite surprising that dissident foreign policy has hardly been noticed as one of the sources of change in processes of global order formation. Along these lines, John Ruggie has rightfully pointed out that IR is lacking a useful vocabulary to describe and explain discontinuities in the development of the 'international system' (Ruggie 1993: 143–44).

This academic void is the result of two parallel developments of disciplinary conventions. On the one hand, the established division of labor between IR and foreign policy research has caused the first to ponder processes of order formation solely on the level of the international system, whereas the latter concentrates on domestic preconditions of foreign policy practice, ultimately losing sight of their long-term impacts on processes of global order formation. On the other hand, meta-theoretical assumptions in large parts of IR and FPA have brought forward a methodological perspective from which an open-ended reconstruction of processes rooting on both the macro- and the micro-level is effectively ruled out. Consequently, and contrary to conventional IR research, our aim is not to predefine what the empirical preconditions of dissident foreign policy are and what effects it may promote. Rather we will suggest potential avenues as to how the relation between such acts of foreign policy and processes of ordering may be reconstructed.

### **Traditional division of labor between IR and FPA**

The emergence of territorial states as the central form of organization (Ashley 1988, Walker 1984), as well as the enforcement of the principle of sovereignty it entailed (Bartelson 1995, Krasner 1999), have not only shaped the ways of thinking and acting in political practice. It has also left its mark on academic categories and disciplinary demarcations. The academic study of global political processes is still characterized by a conceptual division into an internal domestic and an external international sphere (Walker 1993). Whereas IR has claimed the realm of the external sphere, described as an anarchically structured international system, FPA has primarily concerned itself with the internal causes of state behavior. Due to the lack of a vocabulary which transcends and challenges the internal/external divide, the conditions of possibility for these still dominant semantics remain obscured (Hellmann 2013).

Particularly IR theories tend to analytically trace changes in political order only on the international system level. Scholars single out the distribution of material resources as the primary cause for changes in international orders (Gilpin 1981, Kugler and Lemke 2000, Mearsheimer 2001, Waltz 1979) or they turn to the diffusion and the effects of structurally defined 'ideational factors' such as norms (Finnemore and Sikkink 1998, Risse and Sikkink 1999, Wendt 1999). While this vocabulary makes it possible to discern different manifestations and qualities of order (Wendt 1999: 246–312), it remains within a conceptual framework that projects the prime movers of change onto the macro-level of the international system. Foreign policy agents are thus mainly understood as mere 'throughputs' of structural factors (Jackson 2003: 225).<sup>9</sup> The dominance of systemic theorizing in IR entails that attempts to reconstruct the consequences of situationally embedded foreign policy practices tend to be regarded with disdain. Wendt's utter lack of interest towards the subject is instructive: 'Like Waltz, I am interested in international politics, not foreign policy' (Wendt 1999: 11). Against this backdrop, it becomes clear why scholars have never truly considered dissident foreign policy as a trigger or contributor to disruptions in established orders.

Equally problematic is the situation in classical FPA which has institutionalized itself independently from IR. Most approaches examine foreign policy from a domestic perspective, concentrating especially on the influence of particular aspects of the political system or of dispositions of decision makers on foreign policy matters (for an overview, see Peters 2007). Liberal Foreign Policy Analysis, which explicitly understands itself as 'domestic theory' (Doyle 2008: 59), focuses on the

internal process of foreign policy formation, yet does not follow up on its effects on processes of global order formation. Although social constructivist authors have questioned the analytical division of the internal and the external sphere programmatically (Müller and Risse-Kappen 1993), foreign policy practice has subsequently still been conceptualized as the product of domestic political culture, on the basis of which international politics is interpreted (Berger 1998, Duffield 1998, Katzenstein 1996a). While these approaches at least address interrelations of the internal and the external sphere, a theorization of this phenomenon is still lacking (Gourevitch 2002: 321). The constitutive division between 'internal' and 'external' is thus reinforced, and ultimately impedes the formation of a comprehensive understanding of the interrelation of foreign policy and international order (Carlsnaes 2007 [2002]: 334). Macro-structural influences on foreign policy practice as well as the potentially transformative effects of such practices on processes of global order formation do not fall within the realm of such analyses.

### **Foreign policy as practice**

Parallel to the aforementioned approaches, there have been some attempts at achieving an 'intellectual jailbreak' by analyzing changes in international order with a more attuned understanding of foreign policy (Rosenau 1990: 3–5). This chapter hopes to follow up and expand on those lines of research that have dwelled upon the constitutive conditions of political practice. Amongst others, poststructuralist, feminist, neo-Marxist and pragmatist approaches have called into question some of the basic assumptions that have shaped the discipline as well as foreign policy itself (Teschke 2002, Walker 1993, Weber 1995).

Throughout the course of these debates arose a new understanding of foreign policy as a practice of boundary creation that not only (re) produces the interests and identities of agents but also creates political agents in the first place (Ashley 1987, 1988, Hansen 2006). In this perspective, the construction of differences is a constitutive element in the formation of political communities. The imagination of the 'Self' and the 'Other' and the subsequent 'mediation of estrangement' thus count as basic features of foreign policy and, in turn, also as major components of international structure formation (Connolly 2002, Der Derian 1987, Neumann 1999).<sup>10</sup> The difference between agents can be managed peacefully via the routinization of diplomatic practices, thus enabling the establishment of international norms and institutions. The institution of sovereignty is accordingly conceptualized as

the contingent product of interactions between political entities which have learned to recognize each other formally as equal territorial states (see Bartelson 1995, Biersteker and Weber 1996, Walker 1991). The handling of difference, however, can also involve securitization dynamics, foster the formation of confrontational alliances and, in the most extreme case, lead to the emergence of hostile blocs as in the Cold War era (Buzan et al. 1998, Campbell 1998). From this perspective, the formation, reproduction and transformation of global structures of rule is inseparable from foreign policy practices. Instead of becoming a residual category, foreign policy thus takes center stage in the analysis of processes of international order formation (Bially Mattern 2005).

### **Theorizing dissident foreign policy**

The preceding call for a de-ontologization of deviance/dissidence in international politics is then hardly new indeed. As stated in the Introduction to this volume, particularly social constructivist and critical IR theories subscribe to the ideas that (1) deviant actors are the product of constitutive linguistic acts and (2) are defined in terms of hegemonic norms of appropriate behavior, while (3) the power to define such norms is unevenly distributed (see Introduction to this edited volume). How dissident foreign policy has to be theoretically observed and described then does seem to be rather self-evident.

### **Conceptualizing the social quality of dissidence**

The above ideas rest on a theorem that is usually referred to as 'the social construction of reality'. Taken from sociologists Peter Berger and Thomas Luckmann (Berger and Luckmann 1991 [1966]), it serves as a short cut to the view that world politics as a social phenomenon converges with human activity. The concept of social contingency, since then, has contaminated all essentialist vocabularies: the political is not fixed but, broadly speaking, can always be imagined differently, yet under specific conditioning. While this most certainly holds consequences for the actual conduct of world politics, it also has implications for its theoretical observation: the way we structure the latter is always inextricably linked to how we come to see the former. Yet, from a theory-architectural perspective, above said ideas moreover point to the significance of how we conceptualize sociality and through which theoretical perspective we come to study world politics. To us, it is particularly the conceptualization of sociality that seems to make for a blind spot in many approaches. Hence, what is wrong with them

and how does it affect IR theories and consequently the study of dissidence?

An examination of the concept of intersubjectivity provides important insights into how sociality is usually conceived of in IR theorizing.<sup>11</sup> It captures ‘a vast world of ideas and opinions that are so widely shared that they have a degree of solidity’ (Bruce and Yearley 2006: 157–58). How, then, is the achievement of shared understandings theoretically observed, namely how is the constellation in which actual sociality and thus meaning emerges, modeled and interpreted? Most social theoretical approaches in IR rely on a model of situated interaction, understood as processes of learning and socialization.<sup>12</sup> The situation is usually structured by a dyad of two actors facing each other: ego and alter.<sup>13</sup> In line with the Thomas Theorem,<sup>14</sup> they individually come to a definition of the situation. In the following interaction process, both parties enter into an exchange that will produce intersubjective meaning which, in turn, structures/stabilizes expectation-expectations<sup>15</sup> and allows for social action to take place. The social is thus assumed to exist in-between actors, namely *inter*-subjectively, as shared definitions of who they are and what/how the world is.

However, as reasonable as this sounds, this concept of intersubjectivity comes with a price for the observation of the ‘social making’ of international politics and hence dissident politics. The problem lies with the individualistic lens through which the interaction process is observed: Actors are seen in analogy to an individual mind faced with the objective world of things and actors.<sup>16</sup> Intersubjective meanings – for example, a norm identifying (non-)deviant behavior – are depicted as objective ideas (standards of appropriateness) which are subjectively interpreted by individual minds.<sup>17</sup> To depict how individuals can attain knowledge of the situation or other actors, theorists usually fall back on communication as a connector. Communication becomes a unilateral pathway of constitutive or constructive processes as it is usually observed sequentially and with regard to one side of the dyad. Meaning is then exchanged in analogy to parcels sent back and forth between ego/alter or sender/receiver.<sup>18</sup>

As a consequence, such theoretical-methodological sequencing cannot depict the co-emergent quality of three social phenomena: first, regarding the actors, it cannot observe the constitution of alter and ego as social agents in the first place. It always has to presume them as competent actors with given social identities. Dissident states always come to the interaction as such. Second, the structure of the international also needs to be assumed as a fixed normative order. Actors

are always already faced with and acting against an objectively given norm constellation of what counts, for example, as dissident behavior. Third, normative change can only be depicted within the binary opposition of continuity and change. Its complex temporal aspect cannot be grasped as it can only be thought of in relations of, for example, past and present or past and future, namely before/ after interaction. Social change thus becomes merely a linear 'sequence of big bangs' (Katzenstein 1996b).<sup>19</sup> The established observational model of sociality is thus caught between a rock and a hard place as it can only put the pre-existing actor, or at the most, the pre-stabilized 'inter', at the bottom of the social quality of world politics. In any case, the model reduces the latter to mere mechanics rather than conceiving of it as a dynamic, ambiguous phenomenal realm. Gradual change, as in the simultaneity of the non-simultaneous and thus the contingency of order and sociality cannot be adequately depicted.

### **Reconceptualizing the social quality of dissidence**

Mainstream constructivism highlights the contingent quality of sociality and thus of dissident politics. Yet, to see how exactly social contingency 'works' – particularly with regard to an observation of dissidence that does not uncritically reproduce official vocabularies – obviously requires an alternative theory design. How then can the narrow conceptualization of sociality be reformulated to allow for contingency to be more of a radical agent?

With the concept of intersubjectivity obviously leading into a stalemate, the theorist is faced with two choices: to reformulate the concept or to discard it altogether. In the above dyadic model, sociality/social contingency were interpreted as the inability of ego and alter to have direct access to one another. Through the in-between of intersubjectivity they thus reciprocally stabilize their respective expectations. In social theory this condition is described as a state of 'double contingency' (Parsons and Shils 1951). Here the 'inter' sooner or later provides for closure, contingency can be handled and subsequent interaction may occur between ego and alter 'until one or both decide that the interaction is over' (Wendt 1999: 331). Nothing can interrupt, confuse or stop the ongoing interaction except them.

Upon closer inspection, particularly the last idea seems strange; from both a theoretical and an empirical perspective. While it does seem feasible to observe a basic social encounter as one in which only two actors are facing each other, this proposition loses much of its plausibility if we read it not only against the contemporary background of an

increasingly interconnected world, but more importantly against world politics as a highly visible and hence public phenomenon. World politics takes place on a global stage and under the eyes of a global audience. While bilateral exchanges are most certainly still part and parcel of the everyday conduct of world politics, it seems difficult to refute that these also mostly take place in front of a wider audience. Even if, for example, the United Nations<sup>20</sup> may not have access to diplomatic exchanges between Iran and Syria, it will nevertheless literally 'have eyes on' them. This does not simply imply that they may (not) find out what took place. More importantly, it points to the fact that Iran and Syria will (have to) take this additional perspective into account. They are not only forced to take each other's expectations into account, they also have to assume the UN's expectations, whether they intervene in the actual exchange or not. Hence, even in its absence the UN has an impact on the conduct of Iranian-Syrian politics. In more open settings, for example in negotiations at the UN, the omnipresence and relevance of the 'third point of view' in determining what can or should be done seems rather self-evident.

Relating this finding back to our model of sociality not only suddenly makes the dyadic modeling of the social situation seem to be insufficiently complex. The theorem of 'double contingency' obviously needs to be expanded to one of 'triple contingency'.<sup>21</sup> Even if one were to describe this novel constellation in the vocabulary of intersubjectivity, one would still have to concede that in a social situation the self is not only faced with one alter ego but multiple others. Sociality is rarely ever symmetric but usually asymmetric. 'A' and 'B' in world politics rarely enjoy the privilege of acting literally and exclusively 'upon eye level' in the coziness of privacy; and even if they did, they would most likely be aware of the absent third.<sup>22</sup> Yet, particularly in world politics there is one more major reason why it seems impossible to remain within the observational model of the dyad: Without a doubt, 'ideas' and routines can be established and exchanged between only two actors. However, as soon as they (are intended to) become socially relevant, they must transcend the reclusive dyad. Structurally speaking, an adequate theoretical model to observe a social situation, social entities (e.g. dissident states) and the (re)production of order is then not a dyad but a triad.<sup>23</sup> The theoretical function of the third is thus to be able to observe the inherent dynamics of a social situation. It allows for a stronger embrace of social contingency. While in the dyadic model perspectives tend to be stabilized sooner or later, social situations observed under conditions of triple contingency are notoriously unpredictable



and unsteady. While the third perspective may also be able to stabilize a situation, with regard to world politics and the phenomenon of dissidence it not only implies but actually shows why it is, not only in terms of content but also structurally, inherently prone to contestation.<sup>24</sup> Triple contingency theory-architectonically accounts for plurality/poly-contextuality, complexity and hence over- or indeterminacy. It emphasizes why processes of, for example (de-)roguing political agents, can never be a 'uni-logical' or even a teleological progression from 'X' to 'Y' and finally 'Z'.

Reconceptualizing the observational model of world politics and dissidence then points out the challenge of incorporating the third point of view. In line with the vocabulary of intersubjectivity it would thus seem feasible to include a third (individual or collective) actor. Indeed, going back to the above notion that world politics takes place in front of an audience, it seems reasonable to include the latter as the third. After all, the unprecedented spread of streams of communication has brought about a public sphere that can no longer be confined to the 'level' of the nation state – it is a global public sphere that observes, among other things, dissident politics. Yet, while the inclusion of a public sphere more adequately depicts the basic structure of world politics, it is still in danger of falling for the temptation of modeling the former as yet another (collective) mind (made up of individual minds). This would only lead to a situation of three separate minds interpreting each other but not move away from the predicaments associated with it. In order to escape this conundrum we thus propose to switch focus from the observation of interaction to that of communication. Consequently, following the above rule of three, we propose to recast (1) 'linguistic acts' in terms of 'communicative acts', (2) 'legitimacy' in terms of 'legitimization' and (3) 'power' in terms of 'productivity'.

### **Observing and reconstructing dissident foreign policy**

In mainstream constructivism communication is usually conceived of as a one way street 'through-put'. From the actor pole communication then appears as a dominant mode of (re)action and (re)production; actors try to impose their ascriptions of meaning. Communication hence equals transfer, signs and symbols which become plain carriers of meaning (Waldenfels 1980: 166–77). From the perspective of the 'inter', communication becomes the following of rules or practices furnished with a pre-socialized layer. It is conceptualized as an exchange of more or less unambiguous messages along the lines of a sender-receiver model. Meaning is pre-stabilized, that is valid understanding can be simply

derived from a pre-existing normative consensus. However, in order to avoid the laid out theoretical shortcomings, communication must not be assumed to either exist prior to, inside or in-between social beings.<sup>25</sup> Such a locating of communication in/between social actors is mostly due to its enduring equation with language. If communication must not remain tied to social beings, one coherent alternative is that it co-originate with them. This indeed implies that communication is more than language (*langue*), it is rather speech (*parole*):<sup>26</sup> communicative acts that link up over time and space. Communication describes more than individual utterances or the sum thereof. Once introduced in the publicity of the triad, an utterance may become openly available.<sup>27</sup> Likewise, once socially linked-up it is inevitably cut off from the intentions of its author. Moreover, how the utterance is understood in terms of what information is decoded from it and thus understood cannot be fully controlled. The fate or efficiency of a communicative act and thus the notion of the 'act' itself cannot be entirely tied back to an individual agent.<sup>28</sup> Again, within a public sphere it still implies the 'existence' of an author (or authors) – yet who that is and to what end they speak cannot be determined outside communication and moreover, from a temporal perspective, tends to be decoupled from the latter.<sup>29</sup>

Once sociality is understood as an enduring web of communicative acts, the illusion of the 'first word', spoken as the initial spark to interaction, disappears. Communication always already 'exists' as a perpetually, yet non-linearly and non-teleologically updated context.<sup>30</sup> It is the basic building block of sociality and as such so inherently dynamic that it may be influenced, yet cannot be unidirectionally 'steered' or 'controlled'. Communicative acts must then be understood as performative acts. They claim at the same time the reality they express. As such they are highly volatile. They require constant reproduction and actualization in order to subsist.<sup>31</sup> Within the triadic structure, what is socially/politically recognized, (re)produced and becomes effective hinges on its connectivity with already ongoing communicative (re-)formation and re-contextualization of a notoriously unstable horizon of meaning, namely (historical) context.<sup>32</sup>

This, in turn, has implications for the (re-)conceptualization of 'legitimacy' and 'power'. It would be unfair to say, that the legitimacy of political acts has never been understood in processual terms. However, the above communication-based model of observation implies these processes to be even more unstable and subject to contestation than is usually accounted for. The legitimacy, namely the validity, of political acts or identities can therefore not be separated from legitimization as

the perpetual and ongoing communicative processes of the stabilization of particular semantics (i.e., the webs of meaning). Legitimization is thus specifically about the generation of 'permanent' objects of reference (for example Mead 1980) that literally stabilize political agency from communicative act to communicative act. In line with the performative model of communication, legitimization as the (un)successful 'sequencing' or 'linking up' of communicative acts is the very process of *actualizing* communicative forms in specific ways. This is not (necessarily) in a sense of 'copy and paste', but also in a more creative/productive sense. For example, hegemonic orders that depend on the outlawing of particular agents or practices (depending on particularly productive attributions) as dissident(s) are the very expression of and essentially hinge on such communicative acts.

This also implies the need to recast power in a non-individualistic and non-materialistic sense. Its productivity no longer rests on brute material capabilities. Following the above mentioned temporal aspect of legitimization – the stabilization from act to act – also implies the temporal dimension of power as the ability to productively engage in, that is, to irritate communication and to create and sustain openings at one 'end' while at the same time producing closure at others. Power then cannot be 'given' or 'taken away' as it cannot be possessed. It is thus not 'fungible' in any way and cannot be understood in terms of causal determinism. Instead, it represents communicatively (temporally) conditioned political figurations – understood in a strictly non-ontological sense – that (re-)formulate a particular framework of (im-)possibilities. Power then corresponds to strategies that are accompanied and stabilized by differentiated forms or different degrees of legitimization (ideologies, theories and so on; see Berger and Luckmann 1991 [1966]: 110–46).

Consequently, the observation of communication can disclose sociality as an emergent, dynamic phenomenon in its own right. Observing the social agents of the triadic constellation then does not mean to observe how they connect with each other via communication. It means to observe how they are communicatively brought about and (de-)stabilized under the condition of triple contingency in the first place. Likewise, we can then observe how political orders understood as contingent arrangements of governing rules and institutions are communicatively (re)produced in processes of negotiation and contestation. The dissident (state) as a social agent can then neither be thought of as a pre-existing 'whole' nor as being equipped with an equally (pre-)fixed and stable identity. If sociality plays out in line with the fleeting character of communicative acts, identity can subsequently only be understood as

identification, namely equally fleeting and always only ‘temporarily fixed’.<sup>33</sup> As social agents, individuals or collectives only ‘are’ what they become in ongoing acts of communication. Political order and dissidents can hence no longer be understood to exist outside communication.<sup>34</sup> They co-originate and co-evolve along with the latter.

### **Three forms of dissident practices as attempts of transformation**

In this last section of the chapter, we will sketch three kinds of strategies available to states which have been assigned an inferior moral position. In the theoretical vocabulary elaborated above, these strategies are attempts to irritate current routines of communication and thereby to broaden the scope of possibilities. If hegemonic orders structure the realm of (im-)possibilities, the opening of new possibilities inheres the potential for the transformation of these orders. The question what exactly qualifies as an established order against which dissident practices are directed, however, cannot be answered in advance. It can only be fleshed out and substantiated through careful empirical reconstruction.

From the standpoint of a reconstructive methodology,<sup>35</sup> speaking of a ‘structure’ of social fabrics is only meaningful, when the principles of its reproduction and, possibly, its transformation have been established. If orders materialize as routinized structures of meaning, for example in the shape of a cultivated semantics (Luhmann 1981: 9–71), this points us to the ‘need to be able to specify how the structure of the concrete object in question is reproduced’ (Oevermann 1981: 8). What is specifically challenged by dissident foreign policy practices, for example particular readings of norms or institutions, and how order may be reproduced or transformed in subsequent struggles can therefore only be inferred reconstructively from the communicative acts of dissident foreign policy. We thus conceive of dissident foreign policy as a contentious political practice that calls for the interpretation of both, the claims raised in dissident political articulations and those brought forward in the defense of established rules. Observing the underlying communication will thus allow for a reconstruction of how dissident practices may (not) enter into processes of (un)successfully (re)producing identities and orders.

In this sense, we propose a preliminary distinction between three ideal-typical manifestations of dissident foreign policy: (1) practices of separation/(self-)isolation, (2) export of revolution, and (3) anti-hegemonic projects of integration. Whereas the first variant might be

solely aimed at upholding the status quo and is thus potentially of a mere oppositional character, revolutionary and integrative processes involve the articulation of more radical criticism vis-à-vis regional and global orders.

First, dissidence may then be articulated through dissociation, or self-isolation. The refusal to conform to established rules would find expression in a policy of non-cooperation with other states in the context of orders that are regarded as unjust hegemonic impositions. Through separation, states may establish shielded spaces of criticism, in which alternative structures of rule might develop. Such practices, however, may be tantamount to the establishment of violent regimes as is apparent in Albania's foreign policy from 1978 to 1990 or in the self-isolation of North Korea since the 1950s. The self-imposed dissociation of Albania from previous alignments was accompanied by a vehement criticism of Soviet and Chinese claims to specify the parameters for the socio-economic development of other countries (see Backer 1982, Bowers 1989, Jordan et al. 2003, Pearson 2006). In his memoirs, Enver Hoxha opposed a hegemonic order which he labeled 'Eurocommunism' and proffered the idea of a battle against the 'treacherous, fascist, social imperialist practices of the Khrushchevian and Brezhnevian revisionists' which in turn served to legitimate the politics of isolation (Hoxha 1979: 521, 1980).

The particular conception of a hegemonic order by the Albanian government seems to exhibit some similarities to that of Kim Il Sung. His proposition was to develop an independent Korean form of Marxism-Leninism that would be 'applied creatively and in accordance with the concrete conditions of the country and its national specificities' (Kim 1971 [1955]). These examples of strategies of separation and isolation point to interesting foreign policy dynamics, articulated within the semantic framework of Communism that come to the fore in the context of strong ordering attempts during the Cold War. While this first manifestation of dissident foreign policy rests on the assumption that one country alone could develop viable alternatives to current orders, the second type relies on the mobilization of allies to overthrow an existing order.

The second manifestation of dissident foreign policy would consist in attempts to bring about revolutions in other countries. Soviet foreign policy in the 1920s and 1930s as well as Cuban foreign policy in the 1970s for example, aimed at a revolutionary reconfiguration of the 'capitalist world order'. In Soviet foreign policy, the Comintern was the primary vehicle for setting a world-wide revolution in motion.

The complex interplay between the role and the development of the Comintern as the ideological basis on the one hand and strategic considerations of the international power structure on the other can be delineated especially well along the diverging policy lines of Lenin and Stalin. As it became increasingly clear that further revolutions would not materialize, a double-track foreign policy between appeasement and revolution emerged. This meant that the sovereignty of a few states was accepted while other states were progressively 'Sovietized' (Haslam 2006: 638).

Cuban foreign policy of the 1970s with its strong focus on Africa (Falk 1987) is another example for the attempt to reconfigure the 'world capitalist order' by exporting revolutions to other countries and regions of the world. The diversity of interests in African countries appeared to be of great convenience to the Cuban leadership, planning to set in motion a world revolution based on their 'Foco'-model of concentrated guerrilla warfare (Halperin 1963). Instilled with a firm belief that this strategy could be exported, Cuba of all countries took an oppositional position towards the Soviet Union, which at the time favored the idea of a gradual revolutionary transformation of world order (LaVesque 1978, Mires 1978). While Cuba's aggressive internationalism also served as the stabilization of its identity – as was also the case for the Soviet Union in the 1920s and 1930s (Falk 1986) – it also brought the revolutionary project as an anti-hegemonic strategy to the international stage.

The third form dissident foreign policy could take would be initiatives to create spaces of resistance within dominant orders. Typical manifestations could be projects of regional integration with a deliberate counter-hegemonic orientation. The current endeavors of the 'Bolivarian Alliance' of South-American states as well as the founding of the United Arab Republic (UAR) in 1958 seem to be plausible examples for such dissident practices. In its self-conception, ALBA is an anti-imperialist alliance of American peoples which are defying the hegemonic role of the United States in the continent (see Boeckh 2005, Gratius 2005). Instead of a regional trade order based on market liberalization and free trade, ALBA promotes the integration of Central and South America under an explicitly anti-neoliberal banner. Hugo Chávez saw the project not only as an international institution but also as a 'project' that should initiate the formation of a decidedly anti-capitalist 'political consciousness' throughout the region (Cole 2010).

A second example are the aspirations for a unified Arab state in the 1950s and 1960s. Here, dissident practices were directed against a political order that Western colonial powers had imposed on the

Middle East as well as against their continuing influence in the region. In February 1958, Egypt, Syria and later also Yemen created the United Arab Republic. Beside the dominant idea of pan-Arabism, the political program of Nasser's National Union and the Syrian Baath party was informed by anti-colonialism and revolutionary socialism. The establishment of the UAR was to symbolize the beginning of a union of Arab societies underneath the banner of liberation, union and socialism (Choueiri 2009, Kerr 1965). Seen through the pan-Arabic lens, the mandate system had artificially separated the Arab nation into a number of territorial nation states. This regional order, which was instituted by France and Great Britain in particular, was now being radically questioned against the backdrop of a possible unification of all existing Arab states into one republic (see Barnett 1998). The founding of the UAR, just as ALBA today, would be an interesting example for the study of regional integration as a dissident attempt to replace an existing order.

The in-depth analysis of such concrete examples for different types of dissident foreign policy would allow for an empirically rich and theoretically thick reconstruction of the conditions of emergence, the forms of expression and the structural effects of dissident foreign policy practices. Empirically substantiated findings on dissidence could then contribute to a theorization of the impact of contestation on political orders. Such research would ultimately also allow for a stronger theorization of the relation between dissident foreign policy practices and macro-structures. Focusing on reactions to dissident foreign policy, processes of socialization into structures of order as well as their gradual transformation could be reconstructed, ultimately helping to discern the conditions under which dissident practices have 'unleashed' transformative power or, on the contrary, have dashed against hegemonic practices. The conception of political orders as contingent structures in the making that is inherent in this perspective thus also highlights the significance of social agency and takes its transformative potential into account.

## **Conclusion**

This chapter has explored what fresh insight we may gain with regard to dissidence as an analytical concept and a political phenomenon once we theoretically push the notion of social contingency more strongly. The notion of dissidence and the situation of triple contingency, proposed as conceptual alternatives, implied that political identities and orders

are imbued with sociality hence implying a logic of 'becoming' rather than one of 'being'.

The chapter reconstructed the 'social construction of dissidence' from a communicative angle. In decoupling communication from individuals, we were able to describe it as the ongoing web and effect of various layers of meaning which can complement, contradict, or overlap with each other (Rombach 1977: 27ff.). It is due to the implied absence of a meta-level and thus the 'natural hegemony' of communication that different acts can always find points of entry into and link up with communicative processes: 'The ambiguity of communication is thus not an absence but a surplus of truth' (Bühl 2002: 181–82, authors' translation). If social context can hence never be fully determined and 'sealed off', politics is still to be understood as a process of the institutionalization of order. This also carries implications for the study of International Relations. If decision-making is notoriously undermined by social contingency, world politics can no longer be described in essentialist vocabularies but must be studied with regard to how it (re)produces, stabilizes and maintains its *modes* of being.

To be 'communicatively constructed' as a 'dissident' or 'rogue state' within a dominant order, namely a given frame of (im)possibilities, is not tantamount to being powerless. Hegemonic orders leave possibilities for certain forms of resistance which can be used in order to go beyond dominant rules and established institutions. However improbable their success might be, the possibility of such strategies reinforces the theoretical proposition that the persistence of current orders is not determined but only effectively stabilized at most. In other words, the reproduction of hegemonic orders is not fully guaranteed as they leave open the potential for transformation as a – possibly indirect and/or long-term – consequence of dissident foreign policy practices. In this sense, the empirical inquiry into the effects of dissident foreign policy strategies would be the first step on the way to answering the overarching research question of how dissident foreign policy is related to the reproduction and transformation of established political orders.

## Notes

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1. For an in-depth analysis of criminological aspects of calling a state 'rogue', see Wolfgang Wagner in this volume.
2. See Tucker (2000) who underlines Havel's debt to the phenomenological thought of Edmund Husserl and Martin Heidegger, including the importance of the Heideggerian and Husserlian concept of 'authenticity' and the notion that an individual should 'live in truth'.
3. These theories focus on analogous phenomena within societies compared to the phenomenon of dissidence in international politics.
4. For another discussion of the concept of 'ordering' with regard to deviance in IR, see Luigi Corrias in this volume.
5. Namely *dissidere* – not to merely oppose something, but to actually hold a different(iated) view.
6. The critical element here, however, was that this form of dissidence was *recognized* by dominant forms of belief even though it fundamentally challenged their claim to supremacy (Mertin 2008).
7. Orders, in our understanding, are contingent arrangements of governing rules and institutions whose transformation hinges on communicative processes of negotiation and contestation.
8. This definition is derived from a research initiative by a Frankfurt group of IR scholars on Dissidence in International Relations (including Tanja Brühl, Christopher Daase, Nicole Deitelhoff, Nikita Dhawan, Gunther Hellmann, Harald Müller, Andreas Nölke, Uta Ruppert, Klaus-Dieter Wolf and Reinhard Wolf). Along these lines, *dissident* foreign policy may be distinguished from *oppositional* practices insofar as the former challenges the legitimacy of a dominant order *as such*. In contrast, oppositional foreign policy continues to operate within a framework of norms and institutions with the aim of reforming them. Dissident foreign policy agents may thus invoke widely recognized norms, for example sovereignty, yet they may only revert to such communicative patterns in order to further their own cause. In short, they are creatively engaging with elements of an order to overcome that very order. For a similar reconstruction from the perspective of norm entrepreneurs, see Carmen Wunderlich in this volume.
9. To a large extent, this is also true for the literature dealing with 'norm entrepreneurs' because their agency is basically confined to the promotion of already existing norms with an unequivocal meaning. Entrepreneurs are not conceived of as meaning-oriented agents but rather as those functional elements in a mechanism that starts off diffusion processes. In this sense, they are not much more than placeholders for the alleged compelling power of the norms they help to promote.
10. For a discussion of the 'self/other' theme with regard to deviance, see Akan Malici and Stephen Walker in this volume.
11. For an in-depth reconstruction and analysis see Jacobi (2014) on which this sub-chapter builds.
12. Here Wendt's first version of a social theory of international politics as well as the discussion following it, still offer the best insight into how mainstream IR theorizes sociality (Guzzini and Leander 2000, Wendt 1999).
13. Usually ego and alter are conceptualized either as individuals or collectives, for example in 'rogue state' literature, as political elites and audiences (Homolar 2011: 707).

14. 'If men define situations as real, they are real in their consequences' (Thomas and Thomas 1928: 571–72).
15. A reciprocally stabilized expectation as in 'A' expects 'B' to expect 'X' from her; more on this later.
16. As Wendt writes, 'people act toward objects, including other actors, on the basis of the meaning those objects have for them' (Wendt 1999: 329).
17. As Finnemore/Sikkink put it, 'ideas become norms, and the subjective becomes the intersubjective' (1998: 914).
18. This is why in many approaches norms can be 'delivered' already packaged with their legitimacy (see, for example Finnemore and Sikkink 1998: 916).
19. Which then usually empirically accounted for, for example by quantitatively measured 'tipping points' (Finnemore and Sikkink 1998, Homolar 2011).
20. The example of the United Nations is used only for the sake of clarity and to represent one 'element' of an even broader global audience.
21. It seems that the term was first introduced by sociologist Piet Strydom (1999).
22. This is why, for example, the third point of view is also already implicit in our everyday vocabularies, that is, the system of personal pronouns.
23. To be sure: contrary to the (un-)intended implication of many 'constructivist dyads' such a model does not represent the *ur*-scene of the social as the 'ground of the world'. That would imply a constructivism that mistakes its own constructions for 'ontological realities'.
24. Just think of the conflict within the 'coalition of the formerly willing' over whether Iraq is to be considered a rogue state, that is, a threat to world security.
25. As will be shown, human beings as social beings (for example dissidents) only appear *in* communication as communication, that is, attributions. Hence, communication must also not be misunderstood as action in the classical sense, for it would only tie communication back to preexisting and already competent actors, that is (transcendental) subjects.
26. See Saussure (1986).
27. In line with the Latin roots of *communicare*, it is 'shared' or 'made common'.
28. To be clear, the unity of a communicative act is constituted by the triad of utterance/information/understanding (Luhmann 1996).
29. This, of course, raises the question of the attribution of accountability and responsibility; see Huysmans (2011). While the phrase, 'either you are with us or with the terrorists', will nowadays most likely be traced back to George Bush Jr., the question remains whether the productivity of the underlying binary rationale of 'with us/against us' can be entirely traced back to him as a person and if he can be blamed for the *entire* consequences.
30. As in the Latin roots of *contexere*: 'to weave together'; and *contextus*: 'interwoven' and 'ongoing'.
31. This certainly hints at a connection with speech act theory; most certainly in the sense that acts must not be mistaken for simple utterances. However, while both approaches use a concept of performativity, communication as context and act-linking goes beyond the former's (language) philosophical focus on the singular act, its components and moreover the recent return to intentionality; see Austin (1975) and particularly Searle (2011).
32. As such communicative acts are then, in a broad sense, the form of different media and their historical potential to be productive, that is, they create connectivity.

33. This, in turn, has severe implications for processes of recognition; see Bedorf (2011).
34. Again, to be sure, political order and dissidents may very well 'exist' outside language as the latter does not exhaust the above concept of communication. Hence, the test-launching of a nuclear weapon also counts as a social or communicative act.
35. A logic of reconstruction is the methodological counter project to a logic of subsumption, that is, the classification of observations along fixed categories. For an appropriation of this distinction in IR see Herborth (2010) and Franke and Roos (2010).

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# 7

## Role Theory and 'Rogue States'

*Akan Malici and Stephen G. Walker*

### **Introduction**

At the latest since the end of the Cold War, 'rogue states' have come to be seen as a major threat to the security of the United States specifically and the West generally. Indeed, 'rogue states' are often viewed as even more threatening than the Soviet Union during the Cold War. The reason for such heightened fear is that 'rogue states' allegedly do not play by the rules of rationality and are, therefore, difficult to deter from using weapons of mass destruction (WMD). Related is the fear that they would contribute to the proliferation of WMD. Finally, there is the strong concern that 'rogue states' are engaging in the sponsorship of international terrorism (Tanter 1998).

The mainstream and popular commentary on 'rogue states' is rather repetitive. The conventional wisdom is that 'rogue states' are ruled by irrational or crazy leaders who are inherently belligerent in particular against the United States, but also against other (Western) countries. Of course, as the editors to this volume point out in their introduction, the very act of labeling of states as 'rogues' by itself can produce these associations or reinforces them, whether they are legitimate or not.<sup>1</sup> To be sure, many of the allegations leveled against 'rogue states' are true. Over the years, they have been a menace in the international system, and they have posed a threat to the United States and other countries.

However, as the editors point out further in the introduction, 'rogue states' are too often treated as a pre-given category. As is the task of authors throughout this volume, we also want to approach the subject matter from a critical perspective. We do so, as we do not accept the ontological 'given' of 'rogue states'. A main contention in this chapter is that it is also imperative to move beyond the conventional wisdom



and ask questions of the following kind: How did 'rogue states' come to be in the first place? Were these states always belligerent? What was the U.S. role in creating a conflict relationship? We ask these questions with regard to four states: Cuba, North Korea, Iran and Syria.

Like many of our colleagues in this volume, we approach the subject matter from a constructivist perspective and it is well-suited for our task. Constructivism is an inherently critical approach as it rejects the 'givenness' of any social facts or realities (Searle 1995, Wendt 1999). Within the constructivist paradigm our contribution shall be to venture to a particular theory that has been underutilized so far, namely role theory (Holsti 1970, Walker 1987). We believe that role theory can make a significant contribution to the further advancement of constructivism and also to our understanding of 'rogue states' (Thies 2010).

Role is a social theory of interactions, and within any interaction the self-fulfilling prophecy can become an important factor in the evolution of the interaction (Stryker and Statham 1985: 323). The crux of the self-fulfilling prophecy phenomenon is that in a pending interaction, Self *a priori* defines Other as a (future) enemy. It is Self's premature definition of Other, rather than Other's actual identity, that elicits conflict behavior from Other (Darley and Fazio 1980: 869). Then Self takes this conflict behavior as a confirmation of its prophecy (Merton 1957). Tragically, a relationship that might have developed in manifold ways now develops into a conflict between Self and Other. It is a well-established fact that the self-fulfilling prophecy as a socio-psychological phenomenon has a lot of relevance in many social interactions between people (Darley and Fazio 1980, Crano and Mellon 1978, Jones 1977, Rosenthal and Jacobson 1968); however, within role theory this mechanism has not received sufficient attention, and it has also not been applied much to state interactions in the realm of peace and conflict studies. We contend that the self-fulfilling prophecy is also of much relevance here.

The self-fulfilling prophecy illustrates that the category of 'rogue states' should not be treated as pre-given, but as *coming to be*. In the introductory chapter to this volume the editors write: 'While constructivist scholarship has emphasized the constitutive effects of acts of labeling, it has done little in explaining how the fact that a state is labeled as a "rogue" influences the manner in which it presents itself and acts toward the outside world.' Indeed, constructivist thinking has added much to our understanding of international relations, but it itself must also continue to progress. It should be clear that our focus on the self-fulfilling prophecy speaks exactly to the void that the editors lament.

In the remainder of this chapter we will proceed to demonstrate this argument as follows: First, instead of providing the reader with a comprehensive review of role theory,<sup>2</sup> we focus on a few aspects of binary role theory relevant for our purposes. Second, we discuss in more detail the self-fulfilling prophecy as a causal mechanism for constructing a roguish view in social interactions. Third, we illustrate how U.S. leaders had ‘prophecies’ about the states discussed here. Subsequently, we suggest that U.S. fears were false or exaggerated; however, they brought forth what would indeed become a threatening situation in subsequent years and decades. Then we argue that altercasting as a deroguing mechanism may be a possible strategy to ‘unmake’ ‘rogue states’. We conclude by making some critical points about U.S. foreign policy.

## Role theory

Role theory is a social-psychological theory of interactions that ‘is premised on the notion that interdependence is inherent in the nature of relationships’ (Thies 2010: 10). Thus, role theory presupposes at a minimum two agents, Ego and Alter, who assume a *role* and a *counter-role* and who interact to form a social dyad. These social processes of strategic interaction are performative and mutually constitutive. It is through them that social realities come to be and are henceforth perpetuated. Although self-fulfilling prophecies are potential and potent elements in any interaction, to date, this concept has not been elaborated on much in the context of role theory.

The self-fulfilling prophecy may occur as a causal mechanism within the more general process of *role location* at the heart of role theory. The basic elements of role theory include the concepts of *role* and *counter-role*, which are social positions occupied by *ego* (self) and *alter* (other) as agents within a social situation constituted and defined by their interaction.<sup>3</sup> The social interactions of ego and alter initiate, perpetuate or change the situation over time. These interactions are characterized by the exchange of *cues*, which communicate their respective definitions of the social situation (Walker 1987, 1992).

Binary role theory identifies positive (+) and negative (–) cues, which specify four possible definitions of the situation between ego and alter: (e, a) = {+,+;+,-; -,+; -,-}. When the cues are identical, ego and alter agree that the definition of the social situation is stable as either a cooperation (+,+) or a conflict (-,-) situation. If the cues are mixed (+,-; -,+), then the situation is relatively unstable unless either ego and alter can impose this definition because of an asymmetrical power

distribution between them. In such a situation, the stronger dominates (-) while the weaker submits (+) in this definition of the situation (Walker 2011).

Ego and alter reach one of these definitions of the situation by the exchange of a sequence of four positive or negative cues, which collectively define role and counter-role, respectively, for ego and alter by signaling their understanding of the strategic orientation and the power distribution between them. These sequences constitute the process of role location, which breaks down into the processes of *role-making* and *role-taking* as ego and alter initiate and respond to one another. If ego initiates a positive cue, it is a role-making attempt to construct a relationship of cooperation. If alter's subsequent cue is also positive, then it is a role-taking response. However, if alter responds with a negative cue, then it is a role-making attempt. The next exchange of cues by ego and alter then defines the situation and, together with the initial exchange, also signals the power distribution between them (Walker 2011).

The possibilities in Table 7.1 below represent repeated pairs of signals by ego and alter, which define the possible situations between them, but these sequences do not exhaust all of the possible causal mechanisms (sequences) that can lead to the four situations of mutual cooperation, mutual conflict, domination by one and submission by the other. The self-fulfilling prophecy sequence from an initial state of mutual cooperation is  $\{+e +a -e -a\}$  in which ego recasts the situation with alter from  $(+e +a)$  mutual cooperation to alter submission/ego domination  $(+a -e)$  as an intermediate state, and alter responds to define the situation as a final state of mutual conflict  $(-e -a)$ .

The self-fulfilling prophecy sequence is just one possible instance of the *altercasting* mechanism, in which the agent with the next move in a sequence changes rather than reaffirms the existing state. The altercasting agent's cue in this example is role-making, namely attempting to reconstruct the situation from  $(+e +a)$  to  $(+a, -e)$ , and the other agent's

Table 7.1 Alternative definitions of the situation between Ego and Alter

Sequence	Cues	Power distribution	Situation
e,a,e,a	{+ + + +}	Symmetrical (e = a)	Mutual Cooperation (+, +)
e,a,e,a	{- - - -}	Symmetrical (e = a)	Mutual Conflict (-, -)
e,a,e,a	{- + - +}	Asymmetrical (e > a)	Domination/Submission (-, +)
e,a,e,a	{+ - + -}	Asymmetrical (e < a)	Submission/Domination (+, -)

Ego (e), Alter (a); Positive (+), Negative (-); Equal (=), Greater than (>), Less than (<)

response either can be a role-taking cue that reaffirms the new situation as  $(-e + a)$  or can be another instance of altercasting, a role-making cue that changes the situation again from  $(+a - e)$  to  $(-e - a)$ .

This exchange of cues between ego and alter is explained by the self-fulfilling prophecy's assumption that ego believes (falsely) that alter is hostile, which prompts ego to change from positive to negative cues. Ego's behavioral change leads alter to believe (truly) that ego is hostile and prompts alter to change from positive to negative cues. The responsibility for the change in the definition of the situation from  $(+e + a)$  to  $(-e - a)$  is ego's (self's) belief that alter (other) is hostile; hence, it is an instance of a self-fulfilling prophecy leading to an undesirable outcome of mutual conflict.

This essentially communicative process is, of course, ultimately followed by a process of naming the opponent, ascribing a particular role identity to it, such as, 'pariah state' or 'rogue state'. In this sense, as Jacobi, Weber and Hellman point out in their chapter, communicative acts are constitutive and performative acts. 'Rogue states' can be communicatively constructed which, at the same time, may serve the name-giver with the assumption of a counter-identity that would be defined in exclusive and opposing terms.

However, the same altercasting logic can work in reverse to prophecy change from an initial state of mutual conflict  $(-e - a)$  to an intermediate state of  $(-a + e)$  and then to a more desirable final state of mutual cooperation  $(+e + a)$ . An example of this reversal is the 'Gorbachev phenomenon', in which the Russian leader engaged in an altercasting strategy via a series of positive cues toward the United States that were ultimately reciprocated, transforming Soviet-American relations from mutual conflict to mutual cooperation and ending the Cold War (Malici 2008: 30). This logic leads to the inference that it is possible both to 'make' and 'unmake' social situations constituted by the interactions between states and explain these role transitions with variants of the same causal mechanism from role theory – altercasting – in the form of the self-fulfilling prophecy and the Gorbachev phenomenon.

Thus, borrowing language from Onderco's chapter in this volume, the United States could attempt to 'de-rogue rogue states'. Onderco defines 'de-roguing' as 'a reversal of a rogue image, with a strategic (purposeful) goal of reversing the old image and bringing new legitimacy to the former rogue'. We explore below the implications of these possibilities for the critical analysis of American foreign policy.

## The self-fulfilling prophecy

American leaders, as well as the American public, generally tend to see the United States as the 'first nonimperialist superpower' – a claim that, in the words of Samuel Huntington (1999: 38), 'manages in three words to exalt American uniqueness, American virtue and American power.' However, when taking an honest look at the history of U.S. foreign policy, it is evident that American leaders tend to act with a sense of superpower arrogance. Huntington points to a long list of corresponding actual or perceived U.S. actions. One of them is meddling in other countries' internal affairs. Indeed, the United States is known and criticized around the world for its interventionism. In a recent critique of U.S. foreign policy, Parker and Stern (2002: 608) noted:

Many Americans seem to have difficulty in understanding that non-Americans do not always share the positive national self-image cherished by US leaders and citizens alike. American power, seen at home as largely benevolent and a source of virtue and security in the world, is often seen as threatening by others. American interventions in conflicts abroad may well be seen as clumsy, gratuitous, and brutal. Americans may be inclined to see the use of violence as a distasteful duty forced on the United States by international circumstances, whereas others may see these same actions as indications of an 'imperialistic' and arrogant super-powered elephant in the china shop of international affairs.

The history of U.S. foreign policy since the Second World War is full of examples in which U.S. leaders believed they had to intervene in other countries' internal affairs. Some years ago the *New York Times* wrote, 'Since the end of World War II, the United States [...] has installed or toppled leaders on every continent, secretly supported political parties of close allies [...], fomented coups, spread false rumors, bribed political figures and spent countless billions of dollars to sway public opinion' (Broder 1997: A1). A closer look at the history of U.S. interventionism shows that leaders in Washington were very often motivated to act because they feared the spread of communism.

This fear and belief was often unsubstantiated or false, yet it compelled the emergence of real conflicts through a dynamic that is captured well by the concept of the self-fulfilling prophecy. The concept of the

self-fulfilling prophecy was first set forth by Robert Merton. He explains (1957: 423):

The self-fulfilling prophecy is, in the beginning, a *false* definition of the situation evoking a new behavior which makes the originally false conception come *true*. The specious validity of the self-fulfilling prophecy perpetuates a reign of error. For the prophet will cite the actual course of events as proof that he was right from the very beginning.

As we have seen, the self-fulfilling prophecy in binary role theory follows an escalatory interaction sequence in a security dilemma. In narrative terms, it goes as follows:

1. Self develops or is already holding an expectancy about Other. This expectancy has no firm grounding. In international politics it is often motivated by the 'inherent bad-faith model' of decision making, i.e., the tendency to assume unrealistic and improbable worst-case scenarios (Holsti 1967).
2. Self then acts toward Other in a manner that is in accordance with his or her expectancy of Other.
3. Subsequently, Other interprets the meaning of Self's action.
4. Based on this interpretation, Other responds to Self's action. Because conflict action is usually reciprocated, Other responds accordingly.
5. Self sees his or her initial expectancy (prophecy) to be confirmed. The result is a conflict spiral anticipated by the security dilemma (Herz 1959, Jervis 1976).

Of course, in international politics as well as in any real-life situation the successive steps in this interaction sequence are not always immediate or clear cut. However, the general phenomenon is generally traceable and easily understood. As people come to interact with each other they ascribe 'definitions' (images) to each other. These become an integral part of the situation. Actors may 'learn' and internalize them and the newly created intersubjective understanding between Self and Other thus affects subsequent developments (Darley and Fazio 1980). It is through this venue that people or states literally 'make' their enemies and friends (Onuf 1989, Wendt 1992, 1999). In a later section of this chapter we discuss how the same logic also lends itself to 'unmaking' enemies.

Finally, it is important to emphasize and understand the tragedy in the interactions between Self and Other, namely, that the conflict

relationship between Self and Other came into being not because Other indeed holds a hostile or dangerous identity, but because Self falsely assumes so. This false assumption can result from misinformation, misperception or a host of other contingencies that distort the reality of the situation. However, it can also be the result of a calculated motivation. In this case Self is not innocent, but knowingly ascribes a false identity to Other because it serves ulterior interests of Self. Critical students of international relations know well that a well-established enemy image strengthens the authority of the initiating leadership and facilitates its governing role (Campbell 1998).

### **Making 'rogues': constructing the 'roguish view'**

In this section we briefly illustrate the first step of the escalatory interaction sequence of the self-fulfilling prophecy. Through false assumptions the situation becomes a security dilemma and escalates into enmity.<sup>4</sup> Our exercise shows how enemy relations were initiated and developed between the United States and the following 'rogue states'. In all four cases the United States was motivated to act by a more or less exaggerated fear of communism and a naïve belief in the so-called domino theory. Initially applied to Asia, this theory perpetuated the belief that if any country fell to communism, it would precipitate the fall of neighboring states to communism as well (Khong 1992, Ninkovich 1994). However, more generally, the domino theory was also understood to apply to the spread of communism worldwide and not only in certain regions. President Johnson went even so far as to express his fear that communism would advance to California (Dallek 1998: 754).

#### **Cuba**

When Fidel Castro came to power in 1959, there is good evidence that he sought an amenable relationship with the United States (Langley 1970). However, he also pursued economic independence from the United States. Leaders in Washington saw this ambition as an affront against U.S. businesses in Cuba, and they viewed their own economic interests to be threatened. They were further alarmed that Cuba would turn into a Soviet satellite. During his presidential campaign, John F. Kennedy was very concerned about the 'communization' of Cuba (quoted in Gardner 1972: 293). He proclaimed, 'I think there is a danger that history will make a judgment that these were the days when the tide began to run out for the United States. These were the times when the communist tide began to pour in' (quoted in Paterson 1988: 199).

The revolutionary activities of Fidel Castro did indeed coincide with Nikita Khrushchev's announcement that Moscow would support wars of liberation worldwide. However, according to Cuba scholar Thomas Paterson, 'It mattered little to Americans that the two appeals appeared independently or that Havana and Moscow differed markedly over the best method for promoting revolutionary change – the Soviets insisted on utilizing Communist parties [...], whereas the Cubans espoused peoples' rebellions.' Instead, Cuba came to represent the Cold War in the United States' backyard, and, as one U.S. senator explained, it became a 'target for our national frustration and annoyance with Moscow and the whole Communist conspiracy' (Paterson 1988: 125). It was thus quickly decided that Fidel Castro's regime must be overthrown through covert military operations. This plan resulted in the infamous Bay of Pigs fiasco in 1961. According to critics of U.S. foreign policy, it was then only reasonable that Cuba seek an alliance with the Soviet Union as the other superpower. This confirmed the false prophecy that had been made by U.S. leaders. Relations between the United States and Cuba have been bad ever since.

### **North Korea**

The first hostile action of the United States against Korea occurred in 1905. In a secret agreement with the Japanese government, Secretary of State (and later President) William Howard Taft approved Japan's domination of Korea. In return, Washington was given assurances that Tokyo would not challenge U.S. colonial domination of the Philippines. With the conclusion of this agreement, Japanese forces immediately occupied Korea and annexed it as a Japanese possession in 1910. Enabled by the United States, Japan subsequently ruled as the harsh colonial master of the peninsula until its defeat in the Second World War (Oberdorfer 1997: 5).

The North Korean regime considers the United States to be responsible for the artificial separation of the peninsula in 1945. As North Korea specialist Bruce Cumings (Cumings 1981: 120) writes, 'The initial decision to draw a line at the thirty-eighth parallel was wholly an American action, taken during a night-long session of the State-War-Navy Coordinating Committee (SWNCC), on August 10–11' (also cf. Oberdorfer 1997: 6). Cumings (2004: 2–3) elaborates this point further: 'John J. McCloy, Lt. Col. Dean Rusk, and Col. Charles H. Bonesteel unilaterally divided this ancient country, consulting no Korean and no allies, and once U.S. occupation forces arrived three weeks later, they immediately set about repressing the mushrooming progressive movements that spread throughout the peninsula [...]'.



After the division, U.S. troops controlled that part of Korea which included its capital, two-thirds of its population, most of its light industry, and the larger part of its agricultural capacity (Cumings 1981: 121). The goal of U.S. leaders was to establish a 'bulwark' against Soviet communism (Cumings 1981: 136). The crux, however, is that while North Korea was destined to become communist, it would not be of the Soviet kind. Kim Il Sung fostered his own independent ideology known as *Juche*, and it was his aim to unify the peninsula under its rule, but the danger that would result from this happening was arguably very much exaggerated. U.S. meddling on the peninsula delivered a reason for Kim Il Sung to turn North Korea into the isolationist and aggressive state it has become. When North Korean forces illegally invaded the South in 1950, Pyongyang and Washington escalated into the catastrophic Korean War. Since 1953, there has been an armistice, but conflict relations between North Korea and the United States have remained.

### Iran

The Central Intelligence Agency (CIA) had conducted covert operations in Iran since the late 1940s (Byrne 2004: 216). In June 1948, President Harry Truman signed a Cold War directive authorizing 'propaganda; [...] sabotage, anti-sabotage, demolition, and evacuation measures; [...] subversion [...] including assistance to underground resistance movements, guerillas and refugee liberation groups [...]' (Byrne 2004: 216, Etzold and Gaddis 1978: 125–28). These covert operations intensified when in 1950 Mohammed Mosaddeq became Prime Minister of a popular and democratically oriented government (Gasiorowski 1987: 261). Washington leaders feared that Mosaddeq would restrict U.S. and British control of the Middle Eastern oil industry. More importantly, Washington also feared that he would turn the country towards communism. Indeed, Iran was described as 'dangerous and explosive', and a possible 'second China' (Gasiorowski 1987: 267).

In 1952, Truman signed a directive 'authorizing a series of aggressive military, political, 'special,' and other operations [...]' (Byrne 2004: 217). Soon afterwards Dwight Eisenhower became U.S. President and continued his predecessor's approach. Two weeks after Eisenhower's inauguration in January 1953, leading U.S. and British officials met to review the unfolding situation. At this meeting they decided to topple Mosaddeq and install a leadership more compatible with the interests of Washington and London. In April, \$1 million was transmitted to the CIA station in Tehran with the authorization to use it 'in any way that would bring about the fall of Mosaddeq' (Gasiorowski 2004: 232).

Operatives orchestrated Operation AJAX, and the fall of Mosaddeq led to the reestablishment of the Shah who was previously described as 'unscrupulous' by U.S. officials (Gasiorowski 1987: 267, 71). Among experts there is little doubt that this episode was the catalyst for the conflict relations that remain between the United States and Iran today. It is very plausible that, under modernist leader Mosaddeq, Iran would have developed very different relations with the United States in particular and the West in general. It was, however, again a false prophecy by U.S. leaders that compelled a most tragic historical trajectory.

### Syria

In Syria, the United States had also engaged in covert operations since the late 1940s because it feared the installation of a Soviet outpost. A high point came in March 1949 when the CIA encouraged a right-wing military coup, and pro-American Colonel Adib Shishakli emerged as the Syrian leader. He was a brutal dictator, a fact known to leaders in Washington. According to the CIA station chief in Damascus, Shishakli was a 'likeable rogue' who 'had not [...] ever bowed to a graven image. He had, however, committed sacrilege, blasphemy, murder, adultery and theft' (Little 1990: 52, Ma'oz 2004: 165, Weiner 2007: 138). It was perhaps no surprise that by 1954 Shishakli was overthrown through an internal effort. In August 1957, the United States attempted a new coup to overthrow the existing regime (Jones 2004, Lesch 1992, Little 1990). However, the plans failed again, and the Syrian government expelled three U.S. diplomats. The U.S. responded in kind and declared the Syrian ambassador to Washington *persona non grata*.

President Eisenhower and Secretary of State John Dulles then viewed the perceived signs in Syria as 'unacceptable', as they believed that the United States 'could not afford to have exist a Soviet satellite not contiguous to the Soviet border and in the midst of the already delicate Middle East situation' (quoted in Lesch 1996: 134, cf. Lesch, 1992: 96). The U.S. leadership seriously contemplated direct military action against Syria. In late August, Dulles stated to Chief of Staff General Nathan Twining that 'we are thinking of the possibility of fairly drastic action'. And to the British foreign minister he communicated that 'we must be prepared to take some serious risks' (Lesch 1996: 134–37, Little 1990: 71–72). However, Washington ultimately refrained because of the lack of support from Saudi Arabia and Iraq, which it considered necessary to avoid a regional upheaval. Relations between the United States and Syria have remained bad since this time. Also in this final illustration, it was a false definition of the situation that led to a false

prophecy and ultimately to hostile relations between yet another state in the Middle East and the United States.

### **Facing 'rogues': the consequences of false prophecies**

Conventional discussions about 'rogue states' tend to lack an acknowledgment of the historical periods briefly summarized above. It seems that the first significant interactions between the United States and these states that would come to be known as 'rogues' were initiated by Washington, and they were based on a faulty U.S. understanding and ascription regarding the target states. This flawed understanding is what sets the self-fulfilling prophecy and the security dilemma in motion. In the present examples, the faulty definition of the situation constituted an exaggerated or instrumentalized fear of communism and a naïve belief in the domino theory. The plausibility of the domino theory rested on a very superficial level of knowledge. It resulted from a profound ignorance of the actual context of the countries discussed here as well as the actual initial ambitions and intentions of their leaders.

A State Department publication after the Bay of Pigs invasion acknowledges that 'It is not clear whether [...] Castro intended from the start to betray his pledges of a free and democratic Cuba, to deliver his country to the Sino-Soviet bloc [...]' (quoted in Langley 1970: 41). The influential Chair of the Senate Foreign Relations Committee William Fulbright stated to the President that Castro would be 'a thorn in the flesh, but not a dagger in the heart' (quoted in Neustadt and May 1986: 149). For the Senator any operation to oust Castro was 'wildly out of proportion to the threat' (Giglio 2006: 55). The situation with Kim Il Sung in North Korea was also misdiagnosed. Although it has been said that Kim's rise to power was facilitated by Moscow, he was, in fact, quite independent from this communist center, fashioning his own and autonomous brand of Marxism, later known as the *Juche* ideology (Cumings 2004). However, the United States refused to engage with Kim Il Sung, and so any potential for an alliance between Moscow and Pyongyang would grow stronger.

Regarding the case of Iran, although Mossadeq was supported by the Communist Tudeh party, scholars tend to agree that this alliance served instrumental purposes only (Behrooz 2004, Byrne 2004). His reforms proved him to be a liberal democrat and 'ardent nationalist', not a communist (Gasiorowski 1987: 262). Regarding the case of Syria, it did not matter to Washington leaders that there was, in fact, no ideological agreement between Moscow and the leadership of the Syrian

Communist Party (Little 1990: 54). As Michel Aflaq, one of the founding members of the Ba'th party stated in 1956, 'Communism is strange to Arabs just as the capitalist system is strange to them. They will not embrace communism just as they do not embrace capitalism' (Lesch 1992: 105).

In sum, although there were some 'communist movements' in the countries discussed here, they were not as threatening as they were assumed to be or as they were made out to be. The latter conclusion is reinforced by Secretary of State John Foster Dulles who later acknowledged deliberately exaggerating the dangers of communism for instrumental purposes, 'admitting that fanning the flames served important purposes, including preserving allied unity abroad and garnering support for tough policies at home' (Byrne 2004: 219, Gaddis 1982: 102–3, 43–45). In Dulles' words, 'It's a fact, unfortunate though it be, that in promoting our programs in Congress we have to make evident the international communist menace' (Gaddis 1982: 144). What makes matters worse is that not only were situations – willfully or not – misdiagnosed, but in accordance with the 'prediction' of the self-fulfilling prophecy, the faulty diagnoses contributed to the emergence of real danger situations:

In the post-1945 period, the over-estimation of the communist threat has led to global containment, and, in turn, to American expansion and an empire that faces unrelenting challenges. Paradoxically, American global activism to extend and protect American interests and to guard against the spread of communism has not produced more security, but rather a deeper vulnerability. The exaggeration of the Communist threat, in the end, has meant more danger and more threat.

(Paterson 1988: xi–xii)

History runs only once, and so it is problematic to assert that relations between the U.S. on the one hand and Cuba, North Korea, Iran and Syria on the other would have turned out much better than they did. However, U.S. action ensured that one of the worst, if not the worst, outcomes was obtained in each case, which continues to plague the world today. To be sure, the claim here is not that U.S. fears were always devoid of any legitimacy. It is also important to acknowledge that some blame for the ensuing situation is certainly also to be attributed to 'rogue states'. The point here is that in the interest of constructive and productive discussion about the U.S. crises with 'rogue states', it is important to consider the context presented here.

## Unmaking 'Rogues': altercasting as a de-roguing process

U.S. relations with the countries discussed here are seriously bad. What is to be done when facing international relations like these? Similar to Michal Onderco in his chapter about de-roguing, we want to engage here in some general theorizing about such situations. In them, it seems that leaders in Washington are faced with two alternatives. The first is to be unreflective, dishonest, short-sighted, reactive, and thereby continue the pattern of deadlock or mutual (gradual) escalation. To critical observers of U.S. foreign policy, it appears that this has been the dominant way of making decisions since the beginning of the crises and conflicts with these states. Similar to what Wagner is describing in his chapter in this volume, the U.S. approach may be described as a rejectionist crime and punishment strategy.

The second choice is to be more self-reflective, honest, far sighted and magnanimous and thereby explore a path of constructively addressing the alleged deviance of 'rogue states', to aim to de-rogue and then to work toward peaceful conflict resolution. As Wolfgang Wagner points out in his chapter, the choice can be 'dilemmatic' as the outcome cannot be assured. However, as Wagner points out further, the power relationship between the United States and any alleged 'rogue state' is asymmetric which, in turn, may afford the United States to assume a position of magnanimity. Contrary to often articulated fears that such a policy would lead to the emboldening of further roguish behavior, we believe that the consequences would very likely not be detrimental.

If the second option is viewed as desirable, then altercasting may be an appropriate strategy (Wendt 1999). Initially, the underlying logic of altercasting is the same as for the self-fulfilling prophecy. It is interesting (and ironic) that the same psychological 'pathology', which can create enemy relationships, can also function in reverse. In both cases, altercasting and the self-fulfilling prophecy, it is social processes of strategic interaction that lead to the emergence of a new construction (identity). The difference is that in the self-fulfilling prophecy the false definition can be the result of a non-willful distortion. In altercasting, Self is willfully assuming a *desired* identity for Other: By treating Other as if he or she is to respond in a certain way, ego is literally trying to 'teach' its definition of the situation to Other. If alter is 'willing to learn,' then both actors will emerge with a newly created, intersubjective understanding of each other (Blumer 1969: 2, Malici 2006, Merton 1957, Wendt 1999: 330–31).

More specifically, altercasting generally is 'a technique of interactor control in which Self uses tactics of self-presentation and stage

management in an attempt to frame Other's definition of the situation in ways that create the role which ego desires alter to play' (Wendt 1992: 421). It is a strategy to break out of the security dilemma. Within the strategy of altercasting, Self attempts to induce Other to take on a new identity (and thereby enlist Other in Self's effort to change itself) by treating Other as if it already had that identity (cf. Earle 1986, Goffman 1959, Weinstein and Deutschberger 1963). The ultimate goal is that, in the end, both ego and alter subscribe to a newly emerging 'definition of the situation' or a new intersubjective understanding (Mead 1934, Perinbanayagam 1974, Stebbins 1967).

In practical terms, the strategy of altercasting (towards improved relations) entails continuous gestures (moves and tactics) that an opponent would not expect. It is similar to Charles Osgood's (1962, 1960) Graduated Reciprocation In Tension-reduction (GRIT) strategy. Osgood (1962: 96–103) argued that unilateral cooperative initiatives should be unexpected surprise moves, should explicitly invite reciprocation and should be continued over a considerable period of time even if reciprocation is not immediately forthcoming (cf. Goldstein and Freeman 1990). This strategy is not idealistic or naïve. Scholars have argued and shown that Soviet leader Mikhail Gorbachev used an 'altercasting' strategy to transform the Cold War enmity between the United States and the Soviet Union (Goldstein and Freeman 1990, Koslowski and Kratochwil 1994, Malici 2008, Wendt 1999). Wendt (1999: 76) explains:

For four decades [...] the Soviet Union treated the Cold War as a given. Then in the 1980s it engaged in 'New Thinking,' an important outcome of which was the realization that aggressive Soviet foreign policies contributed to Western hostility.

The *new thinking* has been described as 'a deep, conceptual reassessment of what the U.S.-Soviet relationship was'. It was 'constitutive theorizing at the lay level' through which Gorbachev came to realize that the mutual enemy images the superpowers held of each other, were not an unchangeable fundamental reality, but instead a social construction. He further believed that through concessions such as unilateral arms cuts or unilateral moratoria on deployment of strategic weapons to the United States, as well as the de-ideologization of Soviet foreign policy, he could deconstruct the enemy image that the United States was holding of the Soviet Union and that the relationship could be re-constructed.

According to Wendt (1999: 76, 375), Gorbachev's 'New Thinking' was the result of a 'moment of reflexivity' and it allowed him 'to end, unilaterally and almost overnight, a conflict that seemed like it had become set in stone'. United States foreign policy and security may also benefit from a moment of reflexivity regarding 'rogue states', and we contend that the strategy of altercasting is a worthwhile consideration for the United States as it deals with its contemporary enemies. Just as the Cold War was not set in stone, neither are ensuing crises and conflicts in the post-Cold War era with 'rogue states'.

The practical success of our suggestion is, of course, not a certainty. It risks activating a 'self-defeating' prophecy (the counterpart to the self-fulfilling prophecy), in which deviant states treated as decent states take this cue as an incentive to become even more deviant. This critique is the main one against Britain's appeasement strategy toward Germany, Italy and Japan in the 1930s.<sup>5</sup> What is a certainty, however, is that the U.S. approach to various 'rogue states' so far has failed and perhaps made things worse. A casual look at contemporary U.S. relations with North Korea makes this outcome evident immediately. The pursuit of a hardline isolationist policy toward Pyongyang was supposed to halt the development of nuclear weapons in North Korea but the opposite happened. The looming dangers and prospects of further (unnecessary) wars makes it imperative for international relations scholars to think in unconventional ways and set forth alternatives. This goal was our ambition in this chapter.

## **Conclusion**

In this chapter we used role theory to address questions about the emergence of 'rogue states'. We highlighted the self-fulfilling prophecy as a particular mechanism for constructing a roguish view within the role theory construct, and we believe that this concept can answer such questions in a way they have not been answered before. Our analysis has shown that the United States has contributed to the making of North Korea, Cuba, Syria and Iran as 'rogue states'. Today these states are a major international security concern.

An argument that the United States is responsible for hostile international relations – be it the ones discussed here or others – certainly lacks popularity in the United States. It is almost a given that U.S. leaders, at least publicly, feel innocent of any previous actions against the countries discussed here, and they are quick to discard any accusations 'leveled against [them] by outsiders as paranoid nonsense or blatant,

deliberately distorted propaganda' (White 1991: 295). By and large in this regard, the U.S. public is in agreement with its leaders. However, such feelings are often based partly on sheer ignorance of the actual history between the United States and alleged 'rogue states' or any other antagonists and partly on rationalizing whatever the U.S. government has done.

To underline our arguments we have highlighted some historical facts that are rarely acknowledged in the public discussion. We contend that it is these events that brought forth the enemy relationship between the US and today's 'rogue states'. However, just like the Cold War enemy relationship between the United States and the Soviet Union was not set in stone, we suggest that the relationships discussed here or any other hostile relationships are not set in stone. Just as it made enemies, the United States also has the capability to unmake them. A more candid discussion in Washington about the mutuality of any crises or conflicts might be a first step.

Yet, we have to acknowledge that the incentives for such might be very small. Today, 'rogue states' may serve an important purpose: As Bernd Bucher and Jorg Kustermans suggest in their chapters: U.S. leaders are prone to establish a 'we-they logic' which not only narrows down diplomatic openings that seem viable. The identification of a (dangerous and degenerate) 'other' can also shore up American identity and it enables increased levels of social control over the population in matters of domestic as well as international politics. This, of course, remains in the unacknowledged interest of state leaders (almost) anywhere, and especially in great powers such as the United States. Nevertheless, it remains our hope that books like these will contribute to a 'moment of reflexivity' and an altered and more constructive U.S. foreign policy of de-roguing other regimes (Wendt 1999: 76, 375).

## Notes

1. On the point of the construction of social realities through labeling or linguistic processes, cf. also Onderco, this volume.
2. For excellent overviews, cf. Breuning (2011) and Thies (2010).
3. For a problematization of dyadic role conceptions, cf. Kustermans and Jacobi, Weber and Hellmann, this volume.
4. For further treatment of the security dilemma, cf. Wagner, volume.
5. The strategy of Graduated Reduction in Tension (GRIT), in which initial concessions by ego must be matched by alter, is designed to balance the risks of self-fulfilling vs. self-defeating prophecies (cf. Etzioni 1962, Goldstein and Freeman 1990, Osgood 1962).



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# 8

## Rehabilitation or Exclusion? A Criminological Perspective on Policies towards ‘Rogue States’

*Wolfgang Wagner*

### **Introduction**

How should the international community deal with so-called ‘rogue states’? This has been one of the most divisive questions in post-Cold War security politics. It has repeatedly pitted the United States against China and Russia in the UN Security Council. Moreover, it has revealed deep cleavages within NATO and the EU.<sup>1</sup> Controversies have emerged already in 1993 when North Korea announced its withdrawal from the Treaty on the Non-Proliferation of Nuclear Weapons (NPT). They have been discernible in 2002 when the nuclear facilities were discovered in Natanz and Iran was suspected of violating the NPT. They escalated to unprecedented levels when the U.S. government confronted the regime of Saddam Hussein in 2002–2003. They have been simmering on with a view to Iran ever since and may well escalate between the time of writing and the time of publication of this chapter.

Controversies have revolved around the appropriate policy choice: For example, U.S. President Obama has pleaded for an accommodationist policy towards Iran. In his ‘Nowruz address’, Obama addressed Iran’s leadership directly:

We have serious differences that have grown over time. My administration is now committed to diplomacy that addresses the full range of issues before us, and to pursuing constructive ties among the United States, Iran and the international community. This process will not be advanced by threats. We seek instead engagement that is honest and grounded in mutual respect.

(White House 2009)

In his Nobel Prize acceptance speech later the same year, Obama struck a similar chord:

engagement with repressive regimes lacks the satisfying purity of indignation... [But] no repressive regime can move down a new path unless it has the choice of an open door.

(quoted in Litwak 2012:3)

During his campaign for the Republican Presidential nomination, Mitt Romney promptly accused Obama that 'he did not do what was necessary to get Iran to be dissuaded from their nuclear folly' (CBS News 2011). Like most other candidates for the Republican Presidential nomination, Mitt Romney called for a more confrontational strategy:

the president should have built [a] credible threat of military action, and made it very clear that the United States of America is willing, in the final analysis, if necessary, to take military action to keep Iran from having a nuclear weapon

(CBS News 2011)

The strategic choice under discussion seems familiar to students of international security: governments may aim at deterring a threat by signaling resolve or they may aim at enhancing security by accommodating or appeasing an adversary. Indeed, this choice lies at the heart of one of security studies' most prominent concepts: the security dilemma. However, this chapter argues that traditional security dilemma thinking misses a crucial element in the choice decision-makers face with a view to 'rogue states', namely its penological dimension. Because 'rogue states' are defined by constantly violating core community norms, they do not only raise traditional questions of security, but also the fundamental question of penology, namely how a community should deal with deviant behavior. This chapter adopts a criminological perspective to demonstrate that the policy debates about 'rogue states' are indeed imbued with penological issues. From a criminological perspective, the menu of choice is not simply one between accommodation and confrontation, or appeasement and deterrence but mainly one between rehabilitation and exclusion.

The second section presents the standard version of the security dilemma and the strategic choices decision-makers face. It will become clear that so-called 'rogue states' challenge the standard rationale of the security dilemma because interactions with them are characterized by asymmetry, the threat they pose is only partly military and there are

doubts about their capability to make 'rational' decisions. The third section then introduces a criminological perspective that puts the continuous violation of core community norms, rather than the threat to state security at the center of the discussion about 'rogue states'. Such a criminological perspective has at least two insights to offer to scholarship on 'rogue states': first, as demonstrated by Miroslav Nincic, criminological theories of labeling help to better understand the process by which states are labeled as 'rogues'. Second, drawing on theories about the causes and cures of deviant behavior, a criminological perspective highlights that debates about the appropriate policy response are also arguments over the merits of punishment. The policy choice that decision-makers face is therefore one between exclusion and rehabilitation, rather than between deterrence and appeasement. The fourth section discusses to what extent the findings derived from the study of 'rogue states' are relevant for the study of international security more broadly.

### **Confrontation or accommodation? Policy choices under the security dilemma**

The security dilemma<sup>2</sup> describes the fundamental predicament for any state or government in international politics, that is in the absence of a supranational monopoly of force: although it can never know any other state's motives and intentions for sure,<sup>3</sup> it must reach a conclusion whether other states' behavior should be interpreted as a threat or not. This 'dilemma of interpretation' (Booth and Wheeler 2008) often revolves around the armament policy of states which can be seen as either motivated by legitimate concerns about the defense against external aggression or as part of a planned aggression.

Moreover, once this 'dilemma of interpretation' has been settled, a state must decide on an appropriate policy response. If another state is considered to have peaceful intentions, the most obvious policy response would be sending reassuring signals to maintain the peaceful nature of the relationship. However, if another state is seen as hostile and potentially aggressive, it may either adopt a confrontational or an accommodationist policy.

This policy choice is dilemmatic because either strategy may fail and even cause the worst possible outcome: If the other state is indeed hostile, an accommodationist policy may encourage further aggression and enhance the prospects of falling victim to being bullied or even attacked. In this case, a strong signal of resolve would have been necessary to

successfully deter the other state. However, if the other state is actually peaceful (and its alleged hostility results from misinterpretation) then a confrontational policy may lead to a self-fulfilling prophecy, namely that the other state becomes hostile *in response* to the initial confrontational policy (see also Malici and Walker in this volume).

Security dilemma theorizing has been successfully applied to study the dynamics of the Cold War, regional rivalries or the emergence of civil war (Posen 1993). Although the security dilemma has been associated with (neo-) realist theorizing in particular, alternative approaches have used it as a background against which theories of cooperation and transformation have been elaborated.<sup>4</sup>

As I will demonstrate in the next section, however, traditional security dilemma theorizing misses an important dimension, namely that the appropriateness of policies does not only depend on strategic calculations but also on penological considerations, namely on questions of whether states should be punished for what they have done and whether such punishment is warranted on either exclusionary or rehabilitative grounds. In line with the basic thrust of this volume, the study of 'rogue states' is particularly suited to bring this penological dimension to attention. This is so for at least three reasons:

First of all, the study of 'rogue states' highlights that the relation between the antagonists may be highly asymmetric. Whereas the classic illustrations of the security dilemma are rivalries between equals (e.g. Germany and Britain on the eve of WW I or the United States and the Soviet Union during the Cold War), 'rogue states' usually do not match the military capabilities of their opponents, especially since opponents tend to ally against a 'rogue state'. As the very label 'rogue' – but also alternative denominations such as 'state of concern', 'outlaw state' or 'pariah' – indicates, it is the international community, rather than any particular rival that interacts with it.

Second, and related to the first point, 'rogue states' highlight that the nature of the threat is only partly military. Although external aggression or threatening neighboring countries has become a defining feature of 'rogue states', it is only part of a larger picture that includes the maltreatment of its own population and disrespect for international law. Thus, even though numerous countries engage in debating the merits and limits of accommodation and confrontation, only a few are concerned with being bullied or even attacked.

Third, the study of 'rogue states' highlight the limits of rational choice assumptions inherent in much of security dilemma theorizing. Of course, the inaccessibility of true motives and intentions implies that

strategic choices have always to be made under conditions of uncertainty and incomplete information. Nevertheless, both accommodationist and confrontational strategies assume that the antagonist responds in a rationally calculating way: a confrontational strategy assumes that aggression only needs to be made more costly in order to be deterred. In a similar vein, an appeasement strategy assumes that an antagonist can be satisfied by giving in on a highly valued policy goal. Although doubts about the rationality of actors have accompanied security studies from its very beginning, they are particularly pronounced with a view to 'rogue states'. Politics in both Iran and North Korea is often portrayed as extremely ideological and, by implication, insensitive for the carrots and sticks offered by outsiders.<sup>5</sup> As Alexandra Homolar has pointed out, 'rogue states' are 'assumed to be insensitive to traditional instruments of statecraft to influence a country's foreign policy, such as economic sanctions or the threat of military retaliation' because 'the loss of civilian lives is not considered to be a dominant feature in their strategic calculations' (2011:720). As a consequence, 'rogue states' are frequently considered to be unpredictable, undeterrable and irrational.

Asymmetric power relations, disgust about the maltreatment of the own population and doubts about rationality and deterrability are not unique to 'rogue states'. Especially the latter two are features that are familiar from the study of enemy images. However, all three features are particularly pronounced in the case of 'rogue states'. As a consequence, the study of 'rogue states' is well suited to highlight the limits of classical security dilemma theorizing and the importance of penological considerations in dealing with them.

### **The contested purpose of punishment: penological considerations in addressing 'rogue states'**

In this section I will demonstrate the value-added of a criminological perspective on policies towards so-called 'rogue states'. Of course, criminology is not a single coherent approach but rather a discipline comprising numerous theories and approaches. What unites them, however, is an interest in the causes of deviant behavior and, closely related to that, in the appropriate strategies of dealing with deviance. This focus on deviant behavior makes criminology a promising starting point for the analysis of so-called 'rogue states'. Of course, criminology has been geared towards explaining deviance of individuals in domestic society, rather than of states (or other corporate actors) in international society.<sup>6</sup> As the following paragraphs will show, however, there are a



sufficient number of analogies between the deviant behavior of individuals and states to warrant the application of a criminological perspective on 'rogue states'.

My own argument builds on Miroslav Nincic's work that draws on labeling theories in criminology to solve the puzzle of how 'rogue states' can be defined. I will then argue that different criminological theories can be understood as paradigms informing policies.

### Defining 'rogue states': labeling theory

The application of a criminological perspective to the analysis of so-called 'rogue states' has been pioneered by Miroslav Nincic. In *Renegade Regimes* (2005), Nincic draws on labeling theory to answer the question of what defines a 'rogue state' or a 'renegade regime' in the first place. Indeed, criminologists have a similar problem when they have to define their core categories: what is a crime and who should be considered a criminal? As with 'rogue states', the violation of community norms seems to be an obvious defining feature. However, as with 'rogue states', there are many more people violating norms than criminals. Edwin Lemert (1951), Howard Becker (1963) and other proponents of the so-called labeling theory have pointed out that it is not the deviant act as such but the reaction of the community that makes a criminal (or outsider, as Becker called it). It is worth quoting Howard Becker at length to illustrate how well the core argument proposed with a view to domestic society fits the conceptual problem of defining renegade regimes. Becker argued that

social groups create deviance by making the rules whose infraction constitutes deviance, and by applying those rules to particular people and labeling them as outsiders. From this point of view, deviance is not a quality of the act the person commits, but rather a consequence of the application by others of rules and sanctions to an 'offender'. The deviant is one to whom the label has successfully been applied; deviant behavior is behavior that people so label.

(1963:9)<sup>7</sup>

Applied to international affairs, this perspective makes clear that it is the international community that defines what norms are considered core community norms whose violation should not be tolerated. In contrast to most domestic societies, however, there is no comprehensive and generally accepted penal code for the international community. Nevertheless, there are a number of international norms that can

be seen as building blocks for an international criminal code in the making. They include the prohibition of aggression and genocide that form part of *ius cogens*, namely fundamental principles of international law from which no derogation is ever permitted. The statute and case law of the International Criminal Court has not only added 'crimes against humanity' but has also worked towards a definition of aggression. In a similar vein, the 'Draft Articles on the Responsibility of States for International Wrongful Acts' that were adopted by the International Law Commission in 2001, aims at a further codification of norms governing the conduct of states. In contrast to *ius cogens*, however, the ICC-sponsored international criminal law and the draft articles are not (yet) universally applicable as not all states have ratified. The same goes for a number of international treaties that aim at the non-proliferation or elimination of nuclear, biological and chemical weapons. It is important to note, however, that core community norms are not necessarily codified in legal documents. For example, a 'nuclear taboo', namely the understanding that 'civilized nations' should not use nuclear weapons under any circumstances, has emerged over the past few decades without being laid down in international treaties (Tannenwald 2007). In fact, in its advisory opinion, the International Court of Justice could not rule out that the use of nuclear weapons could be legal in an extreme circumstance of self-defense (Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion of July 8, 1996). Taken together, the various prohibitions, rules and taboos amount to a set of international core community norms. Although they first and foremost revolve around the use of force against other states, they increasingly also set standards for the proper treatment of a state's population, as ongoing debates about 'human security', 'humanitarian interventions' or 'Responsibility to Protect' illustrate. Indeed, scholars concerned with defining 'rogue states' emphasize that it is the concurrence of repressing their own population and threatening international peace and security that make states 'rogue' (Dueck 2006, Nincic 2005:48ff., Simpson 2004). The rise of international norms that emphasize the rights of individuals reflects the power and influence of democracies since the end of the Cold War.

Of course, it is also the international community that defines what constitutes a severe breach of a key community norm (as opposed to a tolerable transgression). This perspective also alerts us to the fact that the members of the community occupy different power positions. Especially in the international community, the most powerful states have a greater say on what constitutes a severe violation of core community norms. Thus, the 'likelihood' of being considered deviant, both

within societies and at the international level, is related to position in the applicable social hierarchy' (Nincic 2005:22).<sup>8</sup> Chapter VII of the United Nations Charter endows the permanent members of the United Nations Security Council with considerable powers to treat violations of community norms as a threat to peace and to impose coercive measures on this basis (see also the chapter by Werner in this volume).

### **Cultures of dealing with deviance**

The value-added of a criminological approach is far from exhausted by its contribution to understanding what makes a state a 'rogue'. In this section, I will demonstrate that a criminological approach can also help to better understand the debate about the appropriate policy response towards 'rogue states'. In particular, a criminological perspective helps to highlight the penological dimension in discussing policies towards so-called 'rogue states'.

From a criminological perspective, different positions in the policy debate correspond to different theories about the causes and cures of deviant behavior. Ideal typically, a rehabilitative paradigm and an exclusionary paradigm can be distinguished.

The rehabilitative paradigm has dominated liberal democracies until the 1970s and its core features have remained unchallenged in many European democracies. 'Rehabilitation' has been 'the hegemonic, organizing principle' (Garland 2001:35). Thus, institutions, discourses and practices all center on inclusive notions of assimilating deviance (Young 1999:1–29). The main approach towards crime is to address 'directly the factors – economic, social, or personal – believed to be the cause of crime' (Hollin 2001:241). From this perspective, punishment only seems legitimate to the extent that it contributes to rehabilitation. As the 1972 edition of the U.S. Model Sentencing Act puts it, '[p]ersons convicted of crime shall be dealt with in accordance with their potential for rehabilitation, considering their individual characteristics, circumstances and needs' (quoted in Hirsch 1986 [1976]:9).

Punishment, therefore, is seen as one of many possible treatments. If the individual characteristics, circumstances and needs are unlikely to be advanced by harsh penalties, an alternative treatment seems appropriate. The key is to understand the offender's individual needs and to find measures that enhance his or her self-esteem that forms the basis of re-integration.

The exclusionary paradigm has developed as a critique of the rehabilitative optimism about the correctability of offenders. It combines two different lines of thinking: First, it draws on retributionist thinking

according to which penalties are imposed because they are just and wrong-doers simply deserve them for what they have done. According to Bennett et al.,

virtually all of those in prison [...] are just what most average Americans suppose them to be – not victims of unfettered capitalism, rampant racism, a reactionary citizenry, or Reagan-era budget cuts, but duly tried and convicted violent and repeat criminals who are either dangerous enough, or deserving enough (or both), to merit secure confinement

(1996:91)

When discussing the question of ‘who really goes to prison’, their answer is ‘for the most part, really bad guys’ (Bennett et al. 1996: 101). This retributionism often comes with a ‘criminology of the other’ (Garland 1996: 461) that regards certain criminals as intrinsically different from the rest of the community. Attempts to understand deviant behavior thus appear as morally dubious and are associated with an expert discourse out of touch with popular moral sentiments. Punishment then also serves the moral purpose of expressing that someone’s conduct was wrong and that he or she is blameworthy for having committed it (Hirsch 1986 [1976]: 48).

Second, the exclusionary paradigm is fueled by actuarial ideas and language that are typical of a risk-society (Beck 1992, O’Malley 2010). In the absence of the optimism that characterizes the rehabilitative paradigm, people ‘formerly defined as aberrant and in need of transformation are [...] seen as high-risk subjects in need of management’ (Simon 1998: 453). Penology is thus recalibrated away from a focus on individual guilt to the identification and management of unruly groups (Feeley and Simon 1992: 455).

Retributionist and risk-societal thinking concur in assigning priority to social defense, namely the deterrence, punishment and incapacitation of deviant delinquency. It is the protection of the public and the concern for victims of crime that drives scholars and politicians in the exclusionary paradigm. Society is ‘exclusive’ and ‘responds to deviance by separation and exclusion’ (Young 1999: 26, see also Bauman 2000). Incarceration is considered a technique of maximizing the protection of possible future victims against ‘high-risk individuals’.

These two paradigms of dealing with deviance have been extensively described and discussed with a view to states’ domestic criminal law systems and policies. Because ‘rogue states’ pose a similar challenge to

the international community as criminals do to the national community, we should not be surprised if governments apply the same rationale to 'rogue states' as they have done to 'rogue citizens'. Thus, someone who has grown up in an exclusionary culture of dealing with deviance is unlikely to be a strong believer in diplomacy and negotiations with states that have persistently refused to respect international norms and are viewed as a threat to international security. Quite the opposite: someone who believes in the exclusionary rationale of punishment might be inclined to regard sanctions as an appropriate foreign policy tool. Likewise, someone who believes that the root causes of crime is not a lack of self-confidence and self-respect is unlikely to consider security guarantees and reassurances as a promising way to accommodate 'rogue states'.

In a similar way, someone who strongly believes that many crimes humans commit result from the harm they suffered and the misery they live in should be inclined to apply the same line of reasoning to 'rogue states': Does not Iran have all reasons to feel threatened itself? Is Iran not encircled by neighbors with hostile intentions? Is North Korea's nuclear program not an understandable reaction to the end of Chinese security guarantees? And is the acquisition of nuclear weapons not a reasonable lesson learnt from the U.S. intervention in Iraq? After all, had Saddam really had nuclear weapons, his regime might still be in place.

### **'Rogue state' discourse and cultures of dealing with deviance**

A closer look at the political discourse on 'rogue states' indeed demonstrates that statements are frequently imbued with criminological arguments (and penological ones in particular).

A 'rehabilitative reasoning' can frequently be found in statements justifying an accommodationist policy towards 'rogue states'. Typically, proponents of such an approach subscribe to the notion that states – just like juvenile delinquents – are malleable. The key to changing delinquents for the better lies in addressing the root causes of their delinquency which are typically seen in an unfavorable environment, a deficit in socialization and low self-esteem. Thus, in its strategy against the proliferation of Weapons of Mass Destruction, the European Union states that

The best solution to the problem of proliferation of WMD is that countries should no longer feel they need them. If possible, political solutions should be found to the problems, which lead them to seek WMD. The more secure countries feel, the more likely they are to

abandon programs: disarmament measures can lead to a virtuous circle just as weapons programs can lead to an arms race  
(Council of the European Union 2003)

This strategy resonates well with the measures proposed by proponents of a rehabilitative paradigm: because crime is seen to result from a lack of self-esteem, special measures are designed to compensate for deficits. Just like liberal judges dealing with juvenile crime, the EU states empathize with the norm-breaker and point out how an unfriendly environment has been in the way of some states to become normal, rule-abiding members of the international community. From this perspective, understanding the norm-breaker's motivation not to respect international obligations becomes the key to changing its future course of action and to re-integrating it into the international community. Thus, High Representative Javier Solana reasoned that

All countries are difficult to understand. Iran is one of the most difficult. [...] Its more recent history has in many ways been tragic. It is therefore not surprising that, in the light of that history, many Iranians have a profound suspicion of the outside world. And it is not surprising either that many other countries have a profound suspicion of Iran. Iran is a sophisticated but complicated country and it is not easy for others to deal with.

(Solana 2005)

Interestingly, Solana adds, 'No doubt they think the same about us' (2005). In a similar vein, German Chancellor Schröder told the Munich Security Conference that 'Iran will only abandon its nuclear ambitions for good if not only its economic but also its legitimate security interests are safeguarded' (2005).

A key strategy to re-integrate a 'rogue state' is to re-socialize it. In Schröder's words, 'we must overcome Iran's massive isolation' (2005). Overcoming isolation creates opportunities for dialog, or more specifically: 'critical dialogue' as the European Union dubbed its policy towards Iran in the period between 1992 and 1997 (Reissner 2000, Taylor 2000).<sup>9</sup>

The EU's policy has often been supported by Mohamed ElBaradei who headed the International Atomic Energy Agency (IAEA) from 1997 to 2009. With a view to North Korea, ElBaradei concluded that 'security guarantees and development assistance are always more effective than punitive measures that inevitably escalate the tension' (ElBaradei 2011:47). According to ElBaradei, punitive actions 'failed to address

the underlying reasons for a country's pursuit of nuclear development' (ElBaradei 2011:113, with a view to Iran).

Motives from an exclusionary paradigm can be found in statements by proponents of a more confrontational policy. One striking difference to the rehabilitative paradigm is the refusal to empathize with the states of concern. In a characteristic episode, a journalist referred to Gerhard Schröder's statement quoted above and posed the following question to U.S. President George W. Bush:

Chancellor Schroeder has said that Iran will abandon its nuclear ambitions only after knowing that its economic and legitimate security concerns have been addressed. First of all, do you agree with that assessment, and can that happen without the United States joining the talks with Iran?

President Bush replied:

Yes, I appreciate that. Look, first, let me just make this very clear: The party that has caused these discussions to occur in the first place are the Iranians. And the reason we're having these discussions is because they were caught enriching uranium after they had signed a treaty saying they wouldn't enrich uranium. [...] these discussions are occurring because they have breached a contract with the international community. They're the party that needs to be held to account, not any of us.

(2005:299)

It is interesting to see that Bush does little more than pay lip-service to the head of government of an allied country but in fact refuses to empathize with Iran. Just as an exclusionary penology finds empathizing with criminals morally dubious President Bush prefers to draw a clear line between the norm-breaker and the international community. To quote from another statement just a few weeks later: 'The guilty party is Iran. They're the ones who are not living up to international accords. They're the people that the whole world is saying, "Don't develop a weapon"' (Bush 2005:355). Whereas the rehabilitative paradigm emphasizes the need to overcome the norm-breaker's isolation, the exclusionary paradigm aims at a united front vis-à-vis the norm-breaker. This motive of 'the whole world' being united and sending a common message can be found all over the statements by President Bush. In 2004, for example, Bush said that 'the Iranians need to feel

the pressure from the world that any nuclear weapons program will be uniformly condemned. It's essential that they hear that message' (Bush 2004:645).<sup>10</sup>

Evoking the language of criminal, Republican Member of Congress, James Leach said with a view to North Korea in 1993 that

the United States ought to incarcerate North Korea [...] we should have a policy that makes it clear when you commit a crime that there is some certitude, there is a substantial sentence. That is not going to be for a week or 2 weeks, that it is going to be of some length.

(quoted in Leikert 2010: 185)

Echoing the critique of rehabilitative measures in criminology, proponents of a confrontational policy are highly skeptical whether accommodation works. Among others, French President Nicolas Sarkozy wondered

[W]hat did the international community gain from these offers of dialogue? Nothing. More enriched uranium, more centrifuges, and on top of that, a statement by Iranian leaders proposing to wipe a UN member State off the map.

(2009)

Such skepticism over the ineffectiveness of accommodation often goes hand in hand with concerns about 'rewarding bad behavior' (Litwak 2012:145). At the same time, conspicuously little consideration is given to the effects of a confrontational policy on so-called 'rogue states'. Rather, echoing a 'criminology of the other', the refusal to accommodate Iran or North Korea is seen as a matter of principle. Thus, Colin Powell's chief of staff reportedly summarized the policy of non-negotiation by claiming that 'we do not negotiate with evil' (Lawrence Wilkerson quoted in Davies 2012:316). In a similar vein, a U.S. National Security Council memo applauds the 'moral clarity' that comes with a non-negotiations stance (Litwak 2012:144).

In addition to retributionist thinking, confrontational policy is also spurred by actuarial considerations that are typical of risk-society. In a characteristic move, Iran, North Korea and, until the military intervention of 2003, Iraq, have been regarded as a specific category of states whose member share a particular 'profile' (engaging in WMD development and oppressing their own people). The treatment of otherwise quite diverse countries as a common category is reflected in the talk about an 'axis of evil' as well as in the use of the stigmatizing label 'rogues'.



A confrontational policy does no longer react to particular actions of these states, but is already justified on the basis of what these states are.

To be sure, a confrontational policy towards others because of what they *are*, rather than how they actually *behave*, is not a new phenomenon. In the context of security dilemma theory, Booth and Wheeler refer to this as 'ideological fundamentalism' (2008:65). An example from the Cold War period is U.S. President Reagan's perception of the Soviet Union as an 'empire of evil' that warrants confrontation independent of actual Soviet policies. In contrast to the East-West conflict, however, contemporary encounters with 'rogue states' are characterized by vast power asymmetries. As a consequence, policy towards them becomes more 'managerial': since 'rogues' do not (yet) pose any existential threat, decisions about confrontation or accommodation can be made without concerns about retaliation. Therefore, the policy choice is not fully captured by accommodation and confrontation but instead includes elements of rehabilitation and exclusion.

The managerial and actuarial dimension of confrontational policy is illustrated by the infamous 'one percent doctrine' that has been attributed to Vice President Dick Cheney (Suskind 2006). According to this doctrine, the United States should take action to preempt security threats even if there is only a 1 percent probability that these threats materialize. In the same vein, the U.S. Security Strategy emphasizes the need

for taking anticipatory action to defend ourselves, even if uncertainty remains as to the time and place of the enemy's attack. To forestall or prevent such hostile acts by our adversaries, the United States will, if necessary, act preemptively

(White House 2002:15)

Taken together, the discourse on how to deal with 'rogue states' demonstrates that different policies toward renegade regimes result from different views about the underlying motives for violating international norms and about the concomitant potential to induce a change in behavior. These views correspond with different cultures of dealing with deviance that have been institutionalized in domestic criminal law.

## **Conclusion**

The classic security dilemma logic does not fully capture the interaction between the international community and so-called 'rogue states'. Although the international community is faced with a familiar choice

between accommodation and appeasement, on the one hand, and confrontation and deterrence, on the other, this choice comes with strong penological overtones in the case of so-called 'rogue states'. Thus, pleas for accommodation or confrontation are at least in part<sup>11</sup> motivated by considerations about punishment, rehabilitation and retribution.

Although penological considerations are particularly discernible in the case of 'rogue states', traces of them can also be found in classic security dilemma episodes. During the Cold War, for example, Ronald Reagan's talk of the Soviet Union as an 'evil empire' is clearly reminiscent of an exclusionary paradigm that was already popular among U.S. Republicans. In his critique of sanctions, Miroslav Nincic traced the U.S. preference for punitive foreign policy strategies to the critical juncture of the early Cold War years when hardliners with a Manichean view of the Soviet Union prevailed over those looking for a *modus vivendi* (2011: 35–39). According to Nincic, punitive foreign policy persisted in part because they 'are strengthened by a popular culture [...] that generally applauds toughness when dealing with reprobates' (2011: 41).

Given the rehabilitative culture of dealing with deviance that dominated most of Western Europe at the time, it does not come as a surprise that a confrontational policy did not resonate well in most Western European societies, especially since a rehabilitative policy has been very successful in re-integrating West Germany into the community of Western European democracies via the European Community, WEU and NATO. To be sure, the transatlantic differences about policy towards the Warsaw Pact states are not a sole product of different penologies on both sides of the Atlantic. However, penological differences may well have added to cleavages resulting from different geo-political positions and commercial interests.

Classic security dilemma analysts have typically discarded such residuals as 'misperceptions' that fall into the domain of psychology but should be kept out of a rational choice based theory of the security dilemma. In contrast, this analysis of debates on policies towards 'rogue states' suggests that choices between accommodation and confrontation partly result from deep-seated scripts about the rationale of punishment. In line with the core theme of this book, therefore, approaching international relations from the perspective of deviant behavior has helped to arrive at a fuller understanding of one of its key features.

## Notes

1. For an overview of the policy positions taken by democracies see Onderco and Wagner (2012).

2. The term 'security dilemma' was coined by John Herz (1950). Among many other contributions to the subsequent elaboration of the concept, Robert Jervis' work stands out (see in particular Jervis 1976, 1982). Booth and Wheeler (2008) present an excellent summary of how various schools of thought in International Relations have elaborated on the concept and explored ways to mitigate or even overcome it.
3. Between corporate actors such as states, the uncertainty resulting from the 'other mind problem' is exacerbated by the fact that the leadership of states may change. Thus, even if a current government seems trustworthy and benign, there is always a possibility that this government is replaced by a hostile one.
4. For a comprehensive discussion see Booth and Wheeler (2008), Chapters 4–9.
5. Of course, there are also numerous voices emphasizing the rationality of these states' policies. See, among others, Perthes (2010).
6. Important exceptions are research on 'corporate crimes' and 'collective crimes' such as genocide. Interestingly, recent jurisprudence on collective crimes has come close to treating the state as a criminal. See Werner, this volume.
7. Becker's labeling theory also helps to grasp another important feature of renegade regimes: just as outsiders in domestic society do not form a homogenous group (because they do not commit the same acts but society attaches the same label to what they do), so do renegade regimes in international politics. As pointed out by critics of concepts like 'axis of evil', the regimes subsumed under such label differ in many respects. In fact, treating them as alike is sometimes seen as a source of policy failure.
8. The Bush administration understood very well that the key to defining rogue states is not any objective standard of norm violations but the position of the state in the international community. In the U.S. National Security Strategy of 2002, 'rogue states' are defined as states that violate international law and aim at the acquisition of Weapons of Mass Destruction. In addition and without the slightest irony, however, 'rogues states' are defined as states that 'hate the United States and everything for which it stands' (White House 2002:14). As Nincic demonstrated, the contribution of labeling theory is not exhausted by defining renegade regimes properly. In addition, it highlights important policy consequences for dealing with renegades. Edwin Lemert's distinction between primary and secondary deviance is particularly important in this respect. According to Lemert, primary deviance is a transgression of a social norm for which there are many possible causes. Once society responded to this transgression by labeling the transgressor a criminal, the situation of the transgressor changes dramatically. Most importantly, the motives for future, i.e. secondary transgressions are entirely different from those responsible for the initial, primary transgression. Secondary deviance is first of all a reaction to society's labeling. Nincic (2005:27) convincingly applies this conceptual distinction to the example of revolutionary Iran. During the Islamic revolution, violations of international norms were largely motivated by domestic politics. Subsequent challenges to the international community, however, derive from a different set of motives that is by and large shaped by the international community's reaction to the initial transgressions. For a similar argument see also Malici and Walker, this volume.

9. Proponents of an accommodationist policy also consider positive incentives to be important. In the words of Angela Merkel, then leader of the opposition in the German Parliament (and soon to become Chancellor): 'If one wants to persuade Iran to change its behavior one will need the entire spectrum of diplomatic options. The necessary dialogue between the EU and the USA must yield an agreement about how not only the Europeans, but also the US can foster the process of persuasion with respective incentives' (Merkel 2005, own translation).
10. The emphasis on sending 'clear messages' to offenders also resonates well with neo-conservative criminology. For example, Bennett et al. (1996) argue that the public (as well as families) should not be shy to draw clear lines between right and wrong (with the difference assumed to be obvious) and to stigmatize morally unacceptable behavior. From this perspective, America's high crime rate results from 'moral poverty', i.e. the 'unwillingness to judge', 'the removal of social sanctions in the name of "tolerance" and "open-mindedness" and the devaluing of the idea of personal responsibility' (197).
11. As demonstrated elsewhere, the amount of trade in strategic goods (such as oil) with a 'rogue state' is another important factor influencing a state's policy (cf. Wagner and Onderco forthcoming).

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# 9

## From a 'Rogue' to a Parolee: Analyzing Libya's 'De-roguing'

*Michal Onderco*

### **Introduction**

While studies on how countries come to be seen as 'rogue' abound,<sup>1</sup> the international community's reintegration of 'rogue' states remains an overlooked aspect. This absence is surprising for a number of reasons. First, given that the literature on the strategies of coping with 'rogues' is so copious (for example Brookes 2005, Dueck 2006, Henriksen 2001, Lake 1994, Litwak 2000, Schwartz 2007, Smith 2006), it is unexpected that the literature on the actual demise of 'rogue' state status is as scarce. Second while numerous authors have studied how frames emerge and change within international politics (Krebs and Jackson 2007, Mintz and Redd 2003, Payne 2001, Risse 2000), studies of the reintegration of 'rogues' are by and large missing (Patrick T. Jackson's 2006 study of how Germany was reintegrated to Europe after the Second World War being a rare exception).

This is not to say that there are no empirical descriptions of changes in states' behavior that led to discontinuation of 'rogue' status. Still, we need to theorize how the *status* of 'rogue' is de- and re-constructed. Being a 'rogue' state is a socially constructed quality, conferred upon an entity. Reintegration of a state is thus a matter of frame reversal and re-construction.

In this chapter, I will examine how the American and British governments turned the status of Libya away from that of a 'rogue' state. I focus on the United Kingdom and the United States for two chief reasons – first, because these two countries were in the forefront of the international effort to isolate Libya and second, their mutual relations are extremely close – described by the former UK Foreign Secretary David Miliband as the United Kingdom's 'most important bilateral

relationship' (Giles 2007) and by the U.S. Secretary of State Hillary Clinton as a partnership which withstood 'the test of time' (BBC News 2009). I will especially focus on the period between 2002 and 2004, from the beginning of the secret negotiations between the United States, the United Kingdom and Libya (Leverett 2004) up to Tony Blair's visit to Libya, a moment widely acclaimed as the final point of Libya's reintegration into the international community (Bowen 2006). This period marks the final transformation of Libya's 'rogue' status. The United States and the United Kingdom provide a particularly good case to study how 'de-roguing' works. Muammar Qaddafi's Libya was connected with numerous bomb attacks, which not only demonstrated Libya's support of terrorism, but also created legitimate domestic constituencies opposed to accommodating Muammar Qaddafi's regime.

Thus far, the scholars writing about the Libyan decision to come clean about its WMD programs and to cooperate in counter-terrorism have treated the Libyan action as a success, with the country leaving its 'rogue' status behind. Thus, not only did they imply that Libya's action and Western reaction amounted to the discontinuation of the status of a 'rogue' state (Jentleson and Whytock 2005, Martinez 2006, St John 2004), but they also argued that Libya has been welcomed to the family of nations (O'Reilly 2010). Such a view is flawed though, because, in hindsight, we may observe that the decision to reintegrate Libya was driven by expedience. We can now see that the status conferred upon a former renegade can be quickly overturned, as shown by the use of military force in the spring of 2011 against Muammar Qaddafi's regime.

We may define 'de-roguing' as the strategic and purposeful reversal of a 'rogue' status. The status of a rogue goes beyond the mere label, and attaches a specific exclusionary quality. The reversal of such status therefore goes beyond the change of label too, and includes the reintegration of the former 'rogue' into the international community, encouraging future cooperative relations with the regime. The deconstruction of the status of a 'rogue' can be considered along the lines of desecuritization, with a difference being in the scope of such an action. As a consequence, desecuritization brings about a substantial change of the normative framework, whereas 'de-roguing' concerns only the application (and the end thereof) of a particular status of 'rogue' to a particular state. In effect, the 'de-roguing' does not mean any significant change in what is called 'what good people do' (Fearon 1998), but only signals that a certain state is no longer a 'bad guy'. However, as I will argue in this chapter, in the Libyan case the deep-seated nature of the former status as a 'rogue' made it impossible to remove it swiftly and without



reservations. Therefore we end up in the middle of the road between a 'rogue' and an orderly citizen, at a position akin to that of a *parolee*.

By using 'de-roguing' to study a change of frames, I use the demise of application of a 'rogue state' label to a particular state to study the interplay between the domestic constituencies and foreign policy. While other contributors to this volume look at what we can learn about the international order by analyzing 'rogue states', I look at what we can learn about the interplay between domestic constituencies and foreign policy by looking at the demise thereof. Two other contributions in this volume touch on the issue of the demise of 'rogue' states. Jorg Kustermans addresses the matter, arguing that the demise of 'rogue' state is associated with the change of the understanding of international citizenship on the part of the United States. Contrary to Derrida's argument that 'rogue' states will disappear because the importance of nation-states will generally decline, Kustermans rightly argues that such grand historical appreciations hardly inform a policy-maker's decision-making process (for another critique of Derrida's thesis, cf. Roele 2012). Kustermans' argument on the demise of rogue states is based on the assumption that rogue states would come to be seen as rational and thus possible to deal with. As is clear from the case study, considerations of Qaddafi's rationality do not arise and are thus inconsequential in de-roguing Libya. This can be arguably ascribed to the fact that the dismantling process was, in fact, handled by the United States and Britain themselves. The other is the contribution of Akan Malici and Stephen Walker. Their argument about 'de-roguing' focuses on the altercasting strategy, essentially offering carrots so big that the other side would not even expect them. This contribution, in short, can be seen as parallel to mine. While Malici and Walker's argument is based on the understanding of how to convince a former 'rogue' to change hearts, my argument deals with how 'de-roguing' is portrayed and offers a theoretically informed account of it.

The chapter starts with a brief historical outline of the relations between the United Kingdom and the United States, on one hand, and Libya, on the other, outlining the main points of contention between these three states, such as the bombing of La Belle disco in Berlin, the U.S. bombardment of Tripoli, the murder of Yvonne Fletcher and the Lockerbie bombing. This section is followed by an account of the 'de-roguing' of Libya. The subsequent section provides an explanatory argument on how to square the circle of 'de-roguing'. This section is divided into three subcategories, in which I analyze the status deconstruction, relevance of desecuritization for the study of de-roguing, and

mechanisms of 'de-roguing'. In the concluding section, I synthesize the argument how 'rogues' are 'de-rogued'.

### **Roguish behavior and the end of it**

The image of Libya as a 'rogue' state emerged in the 1980s following Reagan's presidential inauguration, when the country was accused of being a supporter of various terrorist groups (Geldenhuis 2004, Nincic 2005, Totman and Hardy 2008). Libya's leader was given the derogatory title of 'mad dog of the Middle East' (Reagan 1986). Libya was construed as a 'rogue' also in the language of policy-makers. Beyond Reagan's repeated 'mad dog' statements, the image of Libya as a 'rogue' state was perpetuated during Clinton's presidency. In one-fifth of all presidential statements dealing with 'rogue' states, Libya was depicted as falling within this category (Hoyt 2000).

Qaddafi's regime assembled biological and chemical weapons and pursued an active link to the nuclear proliferator A.Q. Khan (Albright and Hinderstein 2005, Bowen 2006, Corera 2006, Squassoni and Feickert 2004). Although a party to the Non-Proliferation Treaty and the Biological Weapons Convention, Libya actively developed both nuclear and biological weapons. The country also developed chemical weapons and successfully used them against Chad in 1987 (Hogendoorn 1997). Libya also pursued an active missile program, based on old Soviet designs, though with debatable active attack abilities (Squassoni and Feickert 2004).

Other incidents followed, such as the killing of Yvonne Fletcher, a British policewoman who was fatally shot during an anti-Qaddafi demonstration in front of the Libyan People's Bureau in London by fire originating from the Bureau. Most importantly, however, Muammar Qaddafi's regime was known for having links with a number of terrorist organizations. Libya was harboring the Abu Nidal Organization (ended effectively in 1999), and maintained tacit links with the IRA and ETA. Libya's support for terrorism culminated in three well-known incidents – the bombing of La Belle disco in Berlin in 1986, during which 230 patrons were hurt (including 79 U.S. servicemen) and three were killed. As a response to this bombing, U.S. President Ronald Reagan ordered the bombing of Tripoli and Benghazi, during the El Dorado Campaign operation. The behavior peaked in 1988, when Pan Am flight 103 from London's Heathrow to New York's JFK Airport exploded over the small Scottish town of Lockerbie, killing all 259 on board and 11 on the ground. Last but not least, in 1989, a bomb hidden in the cargo section

destroyed UTA flight 772 from Brazzaville to Paris via N'Djamena, killing all 170 on board.<sup>2</sup>

More important than these facts was the perception of Libya as a norm-breaking 'rogue', violating the international norms against terrorism and development of weapons of mass destruction (on the existence of the norm against terrorism, cf. Katzenstein 1993, on chemical and nuclear weapons, cf. Price and Tannenwald 1996). Sanctions against a regime, in addition to being a tool of coercive diplomacy, can also be a signaling device to show that the behavior of that regime is unacceptable (Giumelli 2011, Nossal 1989). In this respect, Libya has been repeatedly exposed as engaging in such behavior. The country has been under international sanctions imposed by the UN Security Council under Resolutions 748 and 883, banning aviation relations and arms transfers (UN SC R 748) and freezing assets abroad (UN SC R 883) (Schwartz 2007 provides a legal discussion). In addition to these, unilateral U.S. sanctions against Libya were introduced as early as in 1986 through the executive order under the International Emergency Economic Powers Act, strengthened in 1996 by passing the Iran-Libya Sanctions Act by the U.S. Senate. Furthermore, once designated by the U.S. as a state sponsor of terrorism, Libya faced a number of important trade restrictions, including a ban on trade in dual-use technology and weapons.

Crucially, though, Libya's status as a 'rogue' was broadly embraced. As Totman and Hardy show, the American public supported the air campaign against Qaddafi in 1986 and continued to consider Libya as one of the main threats to U.S. national security (2008). Although a similar appreciation is difficult to make in the case of the United Kingdom (because of the lack of comparative data), Greenwood mentions in his analysis that the pre-Lockerbie British public was opposed to military attacks against Libya (1986). When Prime Minister Thatcher allowed the United States to use British air bases to launch air strikes against Libya in 1986, public opinion turned against her. However, after Lockerbie, she refused an air strike upfront, maintaining that '[r]evenge is never a good word to use because it can affect innocent people' (Brown 1989). However, in the same interview, she attacked Libya as a 'rogue' and described public opinion's disgust by saying: 'Public opinion is disgusted with nations that will not try to track down terrorists. Absolutely disgusted, and is making its own view felt – that is the most important thing of all.'

In the mid-1990s, matters started changing slightly. In 1996, the U.S. State Department, while continuing to list Libya as a state sponsor of terrorism, noted that '[t]errorism by Libya has been sharply reduced by

UN sanctions' (U.S. Department of State 1996). In 1998, after making use of the good offices of Nelson Mandela, the Libyans and the United Kingdom agreed to conduct an independent trial of the two suspects of the Lockerbie bombing in Zeist, the Netherlands, under Scottish law (Boyd-Judson 2005, Hurd 2005, Jentleson and Whytock 2005; McNeil 2000 provides a journalistic account). Next year, Libya expelled the Abu Nidal Organization and officially conveyed its decision to begin discussions on giving up on its WMD programs.

While Libyans were sending signals that they had started feeling both the isolation and the need to reintegrate into the international community (St John 2004), the international community was unsure of how to read these signs. In fact, U.S. Deputy Assistant for the Near East and South Asia Ronald Neumann remarked that '[...] the picture of Libya's current actions is only slowly coming into focus, and our understanding of Libyan intentions or how the Libyan government sees itself in the world remains quite unclear' (quoted in St John 2004:390).

Libyan leader Muammar Qaddafi expressed his shock of the 9/11 terrorist attacks and subsequently offered cooperation in the fight against terrorism. However, the unconventional weapons program remained an open question. This changed in 2002, when Libyans approached the British government for discussions on dismantling its WMD programs. After rounds of secret talks, shortly before the end of 2003, the Libyan Foreign Minister announced that the state had decided to renounce its unconventional weapons, shortly followed by press conferences with the British Prime Minister and the U.S. President to the same effect (Martinez 2006, St John 2004). Libyan rehabilitation thus seemed to have been under way, with the important work of 'de-roguing' a former 'rogue' state lying ahead.

### **'De-roguing' Libya**

The conviction of the Lockerbie bomber Abdelbaset al-Megrahi in 2001 in Zeist certainly did not alleviate the status of a 'rogue', despite the statement of the British Foreign Secretary Robin Cook who argued that '[...] at last [the] relatives know that in a fair trial before an open court justice has been done' (Xinhua 2001). Immediately after the sentence was passed, Bert Ammerman, spokesperson for the Lockerbie victims, accused the Libyan leader of being 'a coward', adding that '[he] is a "rogue" leader and Libya is a "rogue" nation' (Ward 2001). The British government, which expected Libya to pay compensation and to take up the responsibility for these actions, certainly did not contemplate easing

up the sanctions (Knox 2001). In plain language, the *Sun* expressed that 'Libya should be treated as a pariah [...]' and that '[...] justice will not be complete while guilty Gaddafi still rules Libya' (*Sun* 2001).

Already in 2002, Blair had expressed his hope that 'Libya comes into the full community of international relations', being personally prepared to 'extend the hand of partnership on terms that people recognize' (AP 2002, Tyler 2004). These comments arrived as secret negotiations between Libya and the West about the Libyan WMD programs and on the Lockerbie issue had already been under way. Similarly, the 2002 report on Patterns of Global Terrorism remarked that, together with Sudan, 'Libya [seems] closest to understanding what they must do to get out of the terrorism business and each has taken measures pointing it in the right direction' (U.S. Department of State 2002). Shortly before, British minister for the Middle East Mike O'Brien, during his historic visit to the country (O'Brien was the first British official to visit Libya in 20 years) stated that 'Libya, which cooperates fully with the international community, [...], is very much in our interests' (AFP 2002). O'Brien went further and stated that Libya was 'moving away from being an outlaw pariah state towards engagement, with the rest of the international community and compliance with the international law' (Lucazeau 2003). Foreign Secretary Jack Straw took matters to another level in 2004, when, during a press briefing with his Libyan counterpart, maintained that '[the United Kingdom has] always regarded Libya as a good country. We regret the fact that there have been difficulties in the relationship, which is a separate matter, and we are now looking forward to putting those difficulties behind us.' (Transcript of Press Conference Given by the Foreign Secretary, Jack Straw and the Libyan Foreign Minister, His Excellency Abdul Rahman Mohammed 2004).

In late 2003, Blair declared that 'Libya's actions entitle it to rejoin the international community. [...] I now look forward to developing a productive relationship with him and with Libya' (Morris and Buncombe 2003:1). When Libya confirmed its intention to give up non-conventional weapons in 2002, the international community cautiously welcomed it as a step forward. Bush remarked that '[...] when leaders make the wise and responsible choice, when they renounce terror and weapons of mass destruction, as Colonel Qaddafi has now done, they serve the interest of their own people and they add to the security of all nations' (Sanger and Miller 2003, Tyler and Risen 2003). While both Blair and Bush applauded the move, Bush assured that '[because] Libya has a troubled history with America and Britain, we will be vigilant in ensuring its government lives up to all its responsibilities' (Sanger and

Miller 2003). If the process went well, Bush promised Libya 'a secure and respected place among nations' (Sanger and Miller 2003).<sup>3</sup>

This status still contained pre-existing ideas about norms and threats. The first hint came from Prime Minister Blair, who, in February 2004, told the House of Commons that 'rogue' states with WMDs were 'the security threat of the 21st century' (Roberts 2004).

Blair's visit to Libya in March 2004 was groundbreaking. Shortly before the trip, Blair announced that the United Kingdom had offered to help Libya to renounce terrorism. The British Prime Minister clearly distinguished between terrorist networks and Qaddafi, saying that he believes in negotiation that can achieve peace, whereas organizations such as Al-Qaeda have no demands that can be negotiated (AFP 2004). During this visit, British Prime Minister Tony Blair observed that Libya 'made a remarkable progress' and exclaimed it was 'good to be [t]here at last' (Marciano 2004a). Blair also announced in Tripoli that he was struck by Libya's 'determination to carry on down this path of cooperation', including in the military field (Radio Free Europe/Radio Liberty 2005, Xinhua 2005). Greatly appreciated was his exclamation, in which he hailed Libya's leadership's decision as 'right and courageous' (Marciano 2004a), adding that Qaddafi's choice 'will make the region and the world more secure'. George Bush previously made similar comments, arguing that 'Qaddafi's commitment, once it is fulfilled, will make [the United States] more safe and the world more peaceful' (Bush 2003).

Blair recognized 'a common cause, with us, in the fight against Al-Qaeda extremism and terrorism, which threatens not just the Western world but the Arab world also' (Marciano 2004a). During the historical visit to Tripoli, Blair's spokesperson told the media that the United Kingdom and Libya agreed on the need to 'unite together, to recognize the problems caused to the world by fundamentalism'; including terrorism and extremism (quoted in Marciano 2004a). He insisted on 'an overriding duty to try to preserve and enhance the security of my country and of the wider world' (Johnson 2004). Blair called the rapprochement a 'major victory' in the war on terror (Russel and Morris 2004).

Demonstrating the persisting importance of the non-proliferation framework and finding solutions for it, Blair declared the Libyan leadership's actions demonstrate that 'problems of proliferation' can be solved by 'discussion and engagement' with the participation of 'responsible international agencies' (Morris and Buncombe 2003:1). He added that, if Libya continued to give up its WMDs, it would be 'a huge gain, not just for us in Britain or the United States, but the whole of the world' (Johnson 2004). An equivalent statement was made by President Bush,

who argued that 'those weapons do not bring influence or prestige. They bring isolation and otherwise unwelcome consequences' (Bush 2003). Bush also connected the decision to the wider war on terror, arguing that 'opposing proliferation is one of the highest priorities of the war against terror [...] any danger is dramatically increased when regimes build or acquire weapons of mass destruction and maintain ties to terrorist groups' (Bush 2003).

These statements served the purpose of removing Libya's old status and showing the country's newly acquired desire to continue down the road towards orderly citizenship of the international community. The comments do not only portray Libya's change of behavior and its perception by policy-makers, but they also appeal to the rationality of national interests.

Qaddafi's removal from the list of global 'rogues' by the British and U.S. leadership also resonated well in Germany. Blair's course of action got an additional boost from his German counterpart, Gerhard Schröder, who backed him up by stating that 'the change of [Qaddafi's] politics is really remarkable' and deserves every support (Fischer 2004). Such a reference helped to reinforce the new status of Libya.

An interesting element of Libya's 'de-roguing' comes with the fact that Qaddafi's rationality has suddenly not been questioned. His dedication to the abandonment of WMDs and of terrorism has been taken rather at face value (Bowen 2006, St John 2004). This acceptance resulted in a strict dismantling and destruction process which was handled directly by the United States and the United Kingdom, followed by the verification by international agencies (Squassoni and Feickert 2004). Whereas the early denominations of Qaddafi as 'the mad dog' signal that he was considered an irrational leader, his rationality was not questioned in 2002–2004. Similarly, his – continuously abhorrent – domestic human rights record did not stand in the way of 'de-roguing'.

Blair's removal of the old status was not easy, nor was it completely successful. When confronted about Libya's past, Blair asserted that dealing with Qaddafi 'doesn't mean forgetting the pain of the past but it does mean recognizing it is time to move on' (Marciano 2004b).<sup>4</sup> A similar statement was issued by White House spokesperson Gordon Johndroe, who called the historical call between President Bush and Muammar Qaddafi a way to 'bring a painful chapter in the history between our two countries closer to closure. [...] While we will always mourn the loss of life as a result of past terrorist activities, the settlement agreement is an important step in repairing the relationship between Libya and the United States' (Washington Post 2008). In addition to

general opposition from the families of Lockerbie victims, the timing of Blair's trip to Libya was also questioned, as he flew to Libya right after the commemorative service for the victims of the terrorist bombing in Madrid. He was criticized for this by the Conservative Party's leader Michael Howard, who remarked 'odd timing' in Prime Minister's schedule (Macpherson 2004, Marciano 2004b).

Partial and incomplete success of 'de-roguing' can also be demonstrated when looking at the opinion polls. In the United States, the negative view of Libya declined steadily in the post-9/11 era. In 2005–2006, an equal number of people (about 20 per cent) held neutral and positive views of Libya. Similarly, fewer and fewer people identified Libya as the 'greatest enemy' of the United States. In 2005 and 2006, more people attributed this label to France than to Libya (Gallup polls cited in Totman and Hardy 2008). Although a systematic study of British public opinion towards Libya or its leader is lacking, two polls conducted seven years apart can be insightful. The first one was carried out on the eve of Blair's historic visit to Libya. According to a YouGov poll (as reported in the *Guardian*), over three-fifths of Britons approved of his visit to Libya, with only one-fifth being opposed (though the public was much more heavily opposed to military links between the countries) (Ahmed 2004). A similar poll, seven years later, during the apex of the NATO-led Libya mission, asked Britons whether they considered the reestablishment of positive ties with Libya seven years ago as the right thing to do. While about one-third of voters thought so and only a slightly higher proportion was opposed, closer scrutiny shows that the public opinion was heavily split along partisan lines. Whereas roughly one-half of Conservative voters considered the reestablishment of ties with Libya as wrong, the same proportion of Labour and Liberal Democratic voters thought it was right. About one-fifth of voters in each of the camps was not sure (YouGov 2011).

This example, as imperfect as it may be, demonstrates that the 'de-roguing' can be a temporarily successful process, but it did not lead to a complete removal of the tag of a 'rogue'. Effectively, the new frame used in subsequent portrayals of Libya seems closer to the one of a *paroled* criminal than the one of an *orderly citizen*. The difference between the two is important – while for the orderly citizen, there is no retrospective re-analysis; for a paroled criminal, past crimes are not forgotten. In particular, the example shows that as the events were unfolding, British voters were persuaded by the change of the Libya's status. Yet, as the status changed back, the reversal was not as difficult for opposition supporters but persisted for the supporters of the party that was in power



during the period when the reversal took place. An additional example corroborating such a reading of Libya's 'de-roguing' may be the reaction of Obama's administration to the release of the Lockerbie bomber Abdelbaset al-Megrahi, calling it 'highly objectionable' and 'deeply disappointing' (Huffington Post 2009). This essential finding calls for further investigation of the dynamics and change of frame perception, where 'de-roguing' can be a convenient case for analysis.

### **Theorizing 'de-roguing'**

In the introduction to this chapter, I defined 'de-roguing' of states as a strategic and purposeful process of reversal of the 'rogue' status. The goal of such an action is to reverse the pre-existing status of the given country, but goes further and is directed at re-integrating the former 'rogue' into the international community. By doing so, 'de-roguing' aims to make future relations possible by increasing their legitimacy. Only then can transactions with a formerly 'rogue' country be seen as acceptable, which is necessary if any accountable government wants to avoid an unnecessary, uphill fight against public opinion.

Deconstructing a 'rogue' is a process very similar to desecuritization.<sup>5</sup> Although one of the main features of securitization is that, in effect, the measures taken against the securitized threat are 'beyond political process' (Buzan et al. 1998), the process leading to the securitization of threats is simultaneously strategic and political. Its strategic nature stems from the purposefulness of the act, whereas the political nature is given by the frame formation being influenced by actors' power position.

The dominant framing of the international system comes from the prevailing parts of the international system, which enjoy centrality and importance. Within a seemingly anarchic environment of the international system (Bull 1977, Waltz 1979), where a tacit hierarchy, formed by the power and centrality of actors, exists nevertheless (Donnelly 2006, Lake 2009, cf. also Werner in this volume), the hegemonic power fulfills the role of the systems manager, ensuring its workability (Schroeder 2009). It has been recognized that one of the prerogatives of the hegemon is to 'name things' (Kratochwil 2011). As 'rogues' deviate from, challenge or violate the framework,<sup>6</sup> the hegemon is interested in its maintenance, developing thus into the accuser, whose purpose is to defend the existing normative order against the 'rogue's' actions. 'Rogue' state is thus similar to a securitized threat.

If the hegemon is instrumental in the creation of international normative order and in its maintenance, it also has a stake in it (Ikenberry 2001,

Keohane 1984). The purpose of such an international framework is to create compliance associated with a legitimization procedure, which would go beyond coercion and persuasion. Since security norms are not pre-set but in fact are socially constructed and thus amendable (Buzan et al. 1998), it is much easier to grasp that what constitutes the violation of norms is also dependent on time and environment. Securitization theory tells us about construction of issues as security threats (Buzan et al. 1998). Securitization mechanisms include speech acts by powerful central actors, which create a framework for perceiving an issue as a matter of security, even if it has not been so before. The main argument to securitize a threat is along the lines of 'if we do not tackle this problem, everything else will be irrelevant (because we will not be here or be free to deal with it in our own way)' (Buzan et al. 1998:24). Successful securitization differs from securitizing moves by acquired legitimacy – successfully securitized threats are seen as legitimately threatening. The legitimacy is conveyed by an appropriate audience, which provides the context in which construction of security takes place (McDonald 2008).<sup>7</sup>

Desecuritization refers to a process in which an item is retracted from the security agenda. The process of such retraction can be either passive (the issue loses its threatening status because its nature changes) or active (when the relationship between audience and issue changes) (Oelsner 2005). Both desecuritization and 'de-roguing' converge when it comes to the essential political nature of the preceding process and the social construction thereof. As mentioned above, 'de-roguing' does not mean that the framework of international norms changes, only that the status of a 'rogue' is no longer applied to a given state. Within Oelsner's framework and using the example of Libya, neither states became immune to terrorism (which would be the passive way) nor did they become oblivious to the threat (which would be the active way). Rather, Libya stopped being seen as a potential terrorism exporter.

As it has been argued, securitization is to be understood as a strategic practice taking place within a specific set of circumstances, which include a specific context and the existence of a pre-disposed audience (Balzacq 2005).<sup>8</sup> When it comes to de-roguing, there are actually two audiences. The first one is other states in the international community, to whom the signal about the unacceptability of behavior is addressed. States can, however, accept or reject the attachment of the status of rogue to a particular state. The 'roguing' and 'de-roguing' are partly aimed at domestic audience, too, where the label proves stickier. This is why the process of 'de-roguing' is likely end up with the status of a *parolee*.

The analytical result of 'de-roguing' can be thus seen as a removal of the former status of a 'rogue' against a backdrop of an existing normative framework,<sup>9</sup> which remains the same.

The removal of the status of 'rogue' and its replacement with the new status of a parolee requires three independent actions: removal of an old status ('A is no longer as wicked as it used to be'), maintenance of the normative framework (as described above, 'Action that A used to engage in is still abhorrent') and creation of a status in which the actor is now to be seen ('Look, A is now our new friend'). An additional strengthening of the third status can come in by showing that the actor not only stopped engaging in norm violation but that it currently and actively works within the frame of the norm ('A is now an active promoter of the norm they used to violate!'). However, the creation of the new status is the most difficult, because the old status of a 'rogue' is likely too sticky and thus we will probably end up with the status of a *parolee* – someone who has been released from his previous state but has not become a full 'orderly citizen' yet.

Without diving too much into the criminological literature, we may observe many parallels between 'de-rogued rogues' and parolees. Criminological research has repeatedly shown that conditions for release on parole are numerous, vague and often unrealistic to be of any value (Caplan 2007, Huebner and Bynum 2008, Travis III and Stacey 2010). Similarly, as West-Smith et al. showed, it is not good behavior, but rather the misbehavior and noncompliance which mostly affects the parole release decisions (2000). We also know from the criminological research that the danger and risk of potential future crimes and offender blameworthiness both affect the judges' decisions in cases of parole (Steffensmeier and Demuth 2000)

A similar logic applies to 'de-roguing'. From what was discussed earlier, one may clearly see that I nowhere gave any agency to A and its actions. Does that mean that A does not have to change anything and only that the discourse changes (similar to how good behavior is not the most important driver of parole decisions)? No, but how and to what extent A changes is of secondary importance, because whatever the change of behavior, it does not necessitate anything of what follows. If it is seen as mere window dressing or not realized it at all, such a change of heart would be at best an altruistic move towards another actor. On the other hand, only when a change of behavior by A is seen and understood as true and trustworthy, the 'de-roguing' can take place.

## How does the framework play out?

We see the three-step mechanism clearly at work in the case of Libya, when it came to 'de-roguing' Qaddafi. Both American and British leaders went to great lengths to deconstruct the status of Qaddafi 'the lawbreaker' and Libya the 'rogue' state. This is demonstrated not only by the willingness of Prime Minister Blair to extend the hand of partnership to Qaddafi, but also by arguments that Libya was coming to understand 'what [it] must do to get out of the terrorism business' (U.S. Department of State 2002). Senior policy-makers were praising Libya widely as a hopeful example for other countries to follow.

Similarly we observe that the maintenance of the normative framework remains. Both the importance of the fight against terrorism and the non-proliferation of WMD featured prominently in the discourse. Both of them were portrayed as clear dangers to national security and global peace; importance compounded by the fact that the 'de-roguing' of Libya took place only two years after the terrorist attacks of September 11 and the invasion of Iraq, on the grounds that Saddam Hussein was developing weapons of mass destruction. Finding a common cause in terrorism with Muammar Qaddafi's regime is an example of how the normative framework remains intact while the positions of actors therein change considerably. As explained above, this is one of the crucial steps of 'de-roguing', because it shows that the 'sin' is still on the book, but the actor is no longer a 'sinner'.

Last but not least, I argue that the building of the new normative status of the former 'rogue' is not straightforward. The status building was related to both previous 'sins' – terrorism and proliferation. When it comes to terrorism, Qaddafi was being shown as a reformed, willing cooperator in the fight against terrorism, sharing the cause with the United States and Britain.

Although the country was shown as a new partner against the proliferation of WMD, through cooperation with international institutions, the new status of Libya as a responsible partner has not completely permeated public opinion. We may observe that Libya's de-roguing has not been achieved completely and we may instead want to think about the new status as akin to that of a *parolee*. The failure to completely replace the old status with a new one is likely to be due to the sticky old status, too strongly internalized by the public and always ready to be revived.

The difference between the status of *parolee* (stickiness of the old status) and full 'de-roguing' may dwell in the persistence of the regime

previously portrayed as 'rogue'.<sup>10</sup> While a full analysis is beyond the scope of this brief paragraph, the difference with the reintegration of Germany into the European community after the Second World War is striking, compared to the persistence Libya's *parolee* status. The violations of core community norms by Germany were far more grave than those of Libya and most of them were related to German actions in Europe (which makes post-WW II reintegration more important than the 1973 UN admission when it comes to the status of Germany). Yet, after the Second World War, the regime in Germany was changed completely, while in Libya, Qaddafi's regime remained in place. There are many 'buts' to the story (Germany was militarily defeated, its status of renegade was much stronger, there were many more victims, the international order was being recreated), but all these count *against* the reintegration of Germany. It may be recalled that already during the final phases of WWII, U.S. Secretary of Treasury Henry Morgenthau advocated the complete deindustrialization of Germany to prevent future wars, a plan known also as the Morgenthau Plan (Suggested Post-Surrender Program for Germany 1944). The policy was, however, overturned just one year after the war, with U.S. Secretary of State James Byrnes' 'speech of hope', in which he clearly signaled that German militarism (equated with Nazism) is over and that the American and German people are on the way towards reconciliation (Restatement of Policy on Germany 1946, cf. Gimbel 1972 for a more detailed study of the reversal of Morgenthau Plan). Germany was reintegrated into Europe, mostly because the former Nazi regime was removed and a new one installed (Jackson 2006). This did not happen in Libya, where the regime stayed in place. This, however, also made it possible to re-invoke the old status of 'rogue' in the spring of 2011. It remains to be seen whether the regime change in Libya in 2011 will lead to complete removal of the status of 'rogue'.

### How are 'rogues' 'de-rogued'?

This chapter sought to provide a theoretically informed account of 'de-roguing' of 'rogue states', an often overlooked feature of their lifecycle. In this chapter, I assume that 'de-roguing' can be approached as a reversal of the 'rogue' status, necessary to reintegrate the former 'rogue' into the international community. As I have demonstrated, we indeed should approach 'de-roguing' as a purposeful behavior directed at reintegration of such an actor into the international community. The process

of 'de-roguing' is effected in three steps, which may be simultaneous, but should be kept separate for analytical purposes.

The initial stage of 'de-roguing' is the deconstruction of the 'rogue' status, in which the process of de-construction is akin to desecuritization. As such, the process is a strategic one, dependent on a specific time, place and audience. This, in turn, requires that the 'de-roguing' means the discontinuation of the application of the particular status of 'rogue' while the structural conditions (normative framework) remain in place. Maintaining the normative framework not only analytically distinguishes 'de-roguing' from desecuritization, but also serves as a reinforcement of the normative framework. Therefore, it is not the actions of the former 'rogue' which become acceptable, but the former 'rogue' is declared as not engaging in unacceptable behavior any longer. The final step is the application of a new status of *parolee* upon a former 'rogue', instead of the full 'de-roguing'. The former 'rogue' status may be too sticky and, thus, we observe that a former 'rogue' is likely to be seen as a *parolee*, as opposed to a full-fledged, orderly citizen. As such, the former 'rogue' may live a 'normal life', reintegrated into the international community but always threatened by the possibility of a quick regression to the *old status quo*.

This chapter applied the concept of 'de-roguing' to the case of U.S./UK-Libyan relations. Given the rocky past of the United States, the UK and Libya, marked by the terrorism incidents and Muammar Qaddafi's desire to acquire WMDs, Libya's 'de-roguing' provides a particularly interesting study example. The British officials focused on 'de-roguing' Libya and its leader Muammar Qaddafi, mostly by arguing that he was set on a road towards transformation. At the same time, British officials maintained that the terrorist networks and illicit WMD transfers are still a threat for the twenty-first century, reinforcing the existing normative framework.

As this chapter has shown, although 'de-roguing' might have been successful in the short term, in hindsight it would seem that the new status of Qaddafi's regime was closer to the one of *parolee*. If we measure the success of the 'de-roguing' strategy by public support, then the British 'de-roguing' of Libya was successful, as about three-fifths of the British electorate supported the rapprochement with Libya at that time and, similarly, the American public no longer saw Libya as a great danger. However, looking at the fluctuating levels of support and later statements by officials, this chapter provides evidence that a complete removal of the status of a 'rogue' is highly unlikely, as long as the formerly 'rogue' regime remains in place. The 'de-rogued' state is thus akin

to a *parolee*, with whom cooperation is possible, but who has still not yet reached the role of the orderly citizen. And as we may observe with the developments in the spring of 2011, the status of a *parolee* can be quickly revoked. It remains to be seen whether the 2011 regime change in Libya will lead to full 'de-roguing'.

## Notes

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1. Other chapters in this volume provide excellent contributions as well as literature overviews.
2. All of these incidents were attributed by courts to Libyan agents and after 2004, Libya accepted responsibility and compensated the families of victims.
3. Nancy Pelosi, the leader of the Democratic caucus in the House made virtually the same remarks (Libya to Dismantle Its Weapons, Gadhafi OKs Inspections Too 2003).
4. Similar statements were also made by other European leaders, such as Jacques Chirac who stated that 'all the conditions are in place to open a new chapter' in cooperation between France (and the West) and Libya during his visit to Tripoli (Ollivier 2004).
5. Unfortunately, the study of desecuritization is far less popular compared to securitization studies (for notable recent examples, cf. Aradau 2004, Kim and Lee 2011, Huysmans 1998, Roe 2004) and authors tend to treat desecuritization as a process identical to that of securitization, but in reverse. I shall adopt the approach of these scholars, highlighting differences when necessary and appropriate.
6. Violation of international norm is to be understood as different from non-compliance with international law and as a necessary but not a sufficient condition.
7. I am aware of grossly oversimplifying the actual mechanisms of securitization, but for the present purposes, it shall suffice (Buzan and Wæver 2003, Buzan et al. 1998, especially on securitization as a mechanism, cf. Guzzini 2011). Bigo (2002) argues that speech acts are not the only way to securitize issues, but there is also an institutional route to securitization. One of the few studies of desecuritization studies (Kim and Lee 2011) adopts such approach of sorts, combining selectorate and liberal approaches to desecuritization, ignoring speech acts completely.
8. This question also points to an existing gap in the securitization literature which acknowledges that the notion of 'audience' is heavily under-theorized in the securitization literature (Buzan and Wæver 2003, Buzan et al. 1998, Leonard and Kaunert 2011).
9. The observation on how states approach others comes from their perception built on political psychology and emerges out of Jervis's early work (1970).

As the reader can see, I do not follow his later observations that serious research on ideas must stem from political psychology (Jervis 2008).

10. I am thankful to Wolfgang Wagner for bringing this parallel to my attention.

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# 10

## International Law, Renegade Regimes and the Criminalization of Enmity

*Wouter Werner*

### **Introduction**

International law is generally presented as the domain of sovereign equality. Whatever inequalities may exist between states in terms of political power, military capacity, availability of natural resources or economic well-being, international law treats states alike. However, as some more critical studies have shown, narrating international law only in terms of sovereign equality obscures the different ways in which the international legal order has put sovereign states in formally unequal positions (see in particular Simpson 2004). In different epochs, international law has endowed hegemonic powers with special powers and responsibilities, while curtailing the rights of states that challenged dominant norms regarding legitimate statehood (see Reus-Smit 1999 for importance of ‘hegemonic beliefs regarding legitimate statehood’ in the history of international law). Others have argued that the rise of collective security schemes in international law has fatally undermined the notion of sovereign equality between states.<sup>1</sup> Under current collective security frameworks, wars are defined as armed struggles between, on the one hand, lawbreakers and, on the other hand, self-defenders or enforcers of the will of the international community. The result is the idea of war as an affair between formally equal enemies is replaced by an imagery of war as a contest between law-enforcers on the one hand and lawbreakers or threats to the international community on the other.

Although international law thus differentiates between sovereign states, terms such as ‘rogue state’, ‘renegade state’, ‘outlaw’ or ‘pariah state’ have no formal status in international legal discourse. There are no legal definitions of such terms nor are there any formal legal consequences attached to them. If rogue or renegade states appear at all in

international law articles, they are generally defined as external to law; as unredeemable violators of pre-given legal norms, not as the product of legal definition in the first place (see Arend 2002). The closest that international law has come to adopting a special formal label for states violating basic community norms is the notion of 'state criminality'. As will be set out in the third section, however, even this notion proved too radical in the post-1945 era and was abandoned after lengthy discussions in the International Law Commission.

As a result, any legal analysis of 'rogue', 'outlaw', 'renegade', 'pariah' or even 'criminal' states must proceed with caution. There are no directly applicable legal terms of art available to define what is at stake in the labeling and management of renegade states. On the other hand, it is undeniable that international law does play a role in creating unequal relations between sovereigns and has provided the vocabulary that facilitates attempts to label states as perennial violators of basic norms of the international community. With these considerations in mind, I will discuss the relation between international law and 'renegades' in the rest of this chapter. My main question is how international law has been used to define states and governments as renegades and which legal consequences (if any) follow from such qualifications. Since terms such as 'renegade' are absent from the lexicon of international law, answers to this question will remain provisional and sometimes even somewhat speculative. As I hope to demonstrate in the sections below, however, this does not mean that the topic of renegades is unimportant for international law. On the contrary: it goes to the heart of the self-understanding of international law and its role in international politics. In order to substantiate this claim, section one will start out with a general discussion of the ways in which the development of post-1945 international law has facilitated *and* restrained the possibilities to label certain states and governments as renegades. This analysis is followed by a study of two international institutions that have been important in the labeling and management of renegades: the Security Council and the International Criminal Court. The second examines some examples of labeling by the Security Council and sets out how such labeling may affect the basic rights of states under general international law. The third section focuses on the role of international criminal courts in the presentation of governments and the state apparatus as renegades. This may sound counter-intuitive at first sight as the International Criminal Court focuses on individual responsibility, not on states or governments. However, given the nature of international crimes, the institutional position of the International Criminal Court and the function of

(international) criminal trials, prosecution of individuals is intrinsically linked to assessing the legitimacy of regimes.

Here are three final remarks on method and terminology: first, following the constructivist approach adopted in this volume as a whole, this chapter will treat the term 'renegade state' not as a term which describes a pre-existing reality. Instead, this chapter starts out from the assumption that renegade states are the product of constitutive acts; of acts that *present* states as being persistent or unredeemable violators of basic community norms. For those who are willing (or coerced) to act upon this presentation of reality, a new renegade state has come into existence. This point is underscored by the fact that not all persistent violators of community norms are treated as renegades. Moreover, as the example of Libya has shown, it is also possible that states that keep violating basic community norms are effectively labeled as rogues, then welcomed back in the international community, and subsequently presented as rogues again (see Onderco's chapter in this volume). This is not to say that anyone can just sing renegade states or renegade regimes into existence. Obviously, the success of a renegade-producing act depends on the position of the speaker and the behavior of the target state. Speech acts made by supranational bodies or coalitions of hegemonic states (e.g. the Security Council or the Concert of Europe) are more likely to produce renegades than unilateral speech acts, especially if they are made by less powerful agents. Also, it should be noted that the success of an act of labeling depends to a large degree upon the behavior of the target state in question— the chances of successfully labeling a state like North Korea as renegade are significantly higher than the chances of success in the case of Sweden or Canada.

Second, throughout the chapter I will use the term 'renegade' instead of 'rogue', 'outlaw' or 'pariah'. The term 'renegade' refers to someone 'rejecting lawful or conventional behavior' (Merriam-Webster 2012); a renegade thus not just incidentally violates norms, but takes a specific negative attitude towards lawful and conventional behavior. While the other labels also capture important aspects of what is at stake, the term 'renegade' fits particularly well in the logic of inclusion and exclusion that governs international law's dealings with those that are portrayed as unredeemable violators of basic community norms. Unlike the 'savages' and the 'uncivilized nations' of the nineteenth and early twentieth century, renegade states are not excluded from the international legal order as equal sovereigns on the basis of certain presumed ethnic, racial or national characteristics. On the contrary: they are treated as entities that persistently abuse their sovereign status to violate basic norms of

the international community. In other words: they are excluded from the normal protections of international law because they are presented as perennial abusers of their membership of the club of sovereign states. Their inclusion as equal sovereign is thus a precondition for the creation of their specific outsider's position in the international order.

Third, when speaking of 'renegades' in this chapter, I will refer not only to states but also, and more often, to governments or regimes. Labeling a regime rather than the state population as 'renegade' indicates that a state could be reintegrated in the international society after a regime change. In that sense, it differs significantly from acts that label populations or nations as a whole as 'uncivilized', 'mad dog' or 'barbaric'. Under international law, however, effective governments generally represent the state as a whole.<sup>2</sup> In these situations, the renegade character of the regime is projected on the state as an international legal person. At the same time the population as a whole is most often presented as the victim of the renegade regime. In fact, the protection of basic rights and needs of the population is among the main justifications generally offered for interventions in renegade states.

### **Renegade states and the paradoxical development of international law**

Renegade states reveal (once more) the paradoxical development of international law in the twentieth century – and especially its transformation since 1945. Post-1945 international law has incorporated several cosmopolitan values, in areas such as human rights, international criminal law, environmental law and conflict and security law. It has even lifted a core of norms to the status of *jus cogens* or peremptory norms—norms such as the prohibition on aggression, the prohibition on torture and the prohibition of aggression. These norms are regarded as so fundamental to the international community as a whole that states cannot derogate from them.<sup>3</sup> Related to the concept of *jus cogens* is the concept of *erga omnes* obligations, which basically gives all states a legal interest in the protection of a core of (cosmopolitan) norms, including the three mentioned above. This 'thickening' of the international (legal) community puts pressure upon its members to take pertinent action against persistent norm breakers. In this way, international law has facilitated attempts to label states as renegade states and to legitimize coercive measures against such states. An illustrative example is the way in which 'rogue states' are defined in the 2002 U.S. National Security Strategy. Rogue states, according to the Bush administration, were not



just dangerous, brutal and hateful towards the United States, they also 'display no regard for international law, threaten their neighbors, and callously violate international treaties to which they are party' (White House 2002, Chapter V). Since these treaties include norms that seek to protect the international community as a whole and even 'humanity', those rejecting such norms can easily be projected as enemies of mankind as a whole; as *hostes humani generis*. Such invocation of international law resonates well with the concerns expressed some eighty years earlier by Carl Schmitt in response to the creation of the League of Nations and the rise of universal values in international law (see, among others, Schmitt 1988 [1938], 1996 [1932]). Rather than abandoning war, he argued, the collective security scheme would lead to a redefinition of war as an armed struggle between upholders of law and morality and enemies of humanity, the outlier states.

However, the Schmittian logic of exclusion through international law only captures part of the story and fails to do justice to the ambiguous relation between international law and renegade states. Post-1945 international law has not just incorporated universalistic ideals and aspirations; it has also stressed the importance of the equality of states in unprecedented ways. It was, after all, not until the early nineteenth century that the idea of sovereign equality took hold in the relation between European (Western) powers (for a discussion, see Reus-Smit 1999: 101–03, Wight 1977). Even when the notion was applied more widely and consistently in the late nineteenth and early twentieth centuries, international law still contained formally recognized distinctions between 'civilized' states and other states (that went under different labels, including 'barbaric', 'savage' and 'uncivilized'). After the First World War, there were increasing pressures to adopt what Schwarzenberger has called a 'heterogeneous universality' approach, which detached a state's membership of international society from its internal political structure or its alleged cultural characteristics (Schwarzenberger 1936 quoted in Simpson 2004: 4). While this approach did not immediately carry the day (after all, the Treaty of Versailles basically declared Germany to be a criminal and dangerous state and the colonial system was not principally questioned), the idea that a state's sovereign status should not depend on internal characteristics remained alive and reappeared in the negotiations on the UN Charter. As Simpson has shown, attempts to allow membership of the world organization only to democratic states were successfully trumped by a more inclusive approach, that opened the UN up for all 'peace loving nations' (Art. 4 of the UN Charter); in effect a provision that

separated membership from the internal characteristics of states (for an analysis of UN membership, see Simpson 2004: 254–77). This trend was reinforced by the decolonization wave of the 1960–1970's which emphasized the right of newly independent states to determine their own political and economic structure. The agnostic stance towards the internal structure of states was not applied consistently, though. The same anti-colonial and anti-racist logic that spurred calls for a pluralist approach to state sovereignty also called into question the legitimacy of, for example, the apartheid regime. While South Africa under apartheid did not formally lose its status as equally sovereign state, its regime was persistently presented as an unredeemable violator of basic norms of the international community. Perhaps the strongest indicator of this was the definition of apartheid as an international crime; an act that labeled the South Africa's constitutional structure, including its government, as inherently complicit in the implementation of inhuman, criminal acts.<sup>4</sup>

As the example of South Africa shows, the idea that the status of states under international law should be separated from its internal political structure was not always consistently practiced in international relations. In different periods, dominant perceptions of legitimate statehood (such as self-determination for colonized peoples, democracy and human rights) have affected the way states, aspirant-states and governments have been treated (for a discussion, see Roth 2000, Roth and Fox 2000). At the same time, the dominant dogmatic position in international law remained to approach statehood primarily as a matter of effective government over a population in a defined territory, albeit often supplemented by the requirement to respect basic norms of international law. Recognition by other states, while diplomatically important, is generally downplayed as a matter of international law – a mere 'declaratory act' that does not affect the legal status of a state as such.<sup>5</sup> Post-1945 international law, in other words, has constantly oscillated between a factual approach to statehood (the presence of effective, independent control) and a more normative approach (political rule in accordance with dominant beliefs regarding legitimate governance) (see Koskenniemi 2005: 272–82). It has thus both provided the vocabulary to label states or regimes as renegades *and* the vocabulary to counter such attempts.

The same ambivalence can be witnessed in the relation between sovereignty and war. Post-1945 international law fundamentally transformed the way in which sovereign equality has been linked to the use of armed force. Whereas in the nineteenth century the notion of

sovereignty entailed the prerogative to go to war if deemed necessary, post-1945 international law links sovereign equality to a *prohibition* on the use of force between states. Note that the UN Charter does not simply outlaw war (as did inter-war predecessors such as the Kellogg-Briand Pact), but the use of force in general (Article 2(4) of the UN Charter). Even forcible measures that fall short of full-scale war are thus outlawed in the present international order.<sup>6</sup> Sovereign equality, in other words, was redefined from a notion that empowered states to go to war to a notion that protected states against all kinds of armed interventions. As was noted above, the prohibition of wars of aggression even constitutes a peremptory norm of international law as well as an international crime for which individuals can be held responsible.<sup>7</sup> This underlines modern international law's ambiguous relation to renegade states. The very same language that facilitates the labeling of states as renegades (i.e. the criminalization of aggression) limits the possibilities of disciplining such states through armed intervention. Attempts to use coercive measures against alleged renegades may thus backfire: as the example of the series of U.S.-led attacks on Iraq attests, the intervening state itself may become the target of attempts to label it as a threat to basic community values. For the Chomskys of this world, it is precisely the lack of respect for the peremptory norm against aggression in the United States' dealings with perennial violators of international law that turns it into a 'rogue state' itself (for example, Chomsky 2013 [1998]).

## **The Security Council, renegades and the right to self-defense**

### **Labeling by the Security Council**

Under the UN Charter, the Security Council is the primary organ responsible for the maintenance of international peace and security (Article 24 of the UN Charter). In order to fulfill its duties under the UN Charter, the Security Council is empowered to take far-reaching exceptional measures, which may suspend many rules that govern relations between states in times of normalcy.

It would be mistaken to view the Security Council as some form of law-enforcement agency. The primary formal responsibility of the Security Council is to take emergency measures, to counter threats; not to enforce international law as such.<sup>8</sup> In practice, however, the Security Council has gone a long way in identifying persistent violations of basic legal norms by specific countries, thus effectively labeling them as renegades or at least as states structurally implicated in the commitment of

international crimes. States targeted by the Security Council are thus in effect presented as dangerous (otherwise provisions of the Chapter VII of the UN Charter could not kick in) and violators of basic community norms. During the Cold War, the cases of South Africa and Rhodesia stand out as examples of such labeling. South Africa was consistently condemned for its violation of core values such as the prohibition of racism and the obligation to respect the right to self-determination. This condemnation was accompanied by a sanctions regime, including an arms embargo. The response to Rhodesia's declaration of independence (1965) was even stronger. The Security Council consistently referred to the white minority regime as an 'illegal regime', or a 'racist regime' (or a combination of both), declared the independence null and void, called upon other states to isolate the regime and not to recognize Rhodesia's independence. The case of Rhodesia is interesting, because it touches upon the very basis of statehood. Can a political community obtain the legal status of a 'state' under international law if its creation is tainted by violations of core values of the international order? Textbooks of international law sometimes even refer to the Rhodesia example to argue that respect for fundamental norms of international law belongs to the criteria for statehood. Apparently, being a sovereign state is then not only about effective governmental control over a population and a territory, but also about being a decent member of the community of states. In this way, the distinction between 'civilized' and 'uncivilized' states has reappeared in international law, albeit under quite a different heading and in a more *ad hoc* fashion than in the nineteenth and early twentieth centuries.

After the Cold War, the Security Council has effectively labeled a number of states as renegades, such as Libya, Afghanistan, Serbia or Iraq. Especially Iraq provides an interesting example because of the (often mentioned) parallels between the treatment of Germany after the First World War and Iraq after the 1990/1991 Gulf War. In both cases, a defeated enemy was treated as a renegade that needed to be punished, contained and reeducated at the same time. As Bederman has set out, both states were subjected to a demilitarization regime that included restrictions on weapon systems, compliance mechanisms (including unrealistic deadlines) and a continuous threat of resumption of hostilities (Bederman 2002).

### Effects on self-defense

The labeling of states as renegades may have consequences that go beyond the specific regime imposed by the Security Council. In the

case of Iraq, for example, this was visible in the Anglo-American attacks between 1997 and 2001 (Simpson 2004: 293–94). According to the strictures of the Charter, such attacks could only be justified if they were backed up by a specific Security Council authorization to use force.<sup>9</sup> Instead, the United States and the United Kingdom construed an implicit authorization from Security Council Resolution 688 (condemning the repression of the Iraqi civilian population, especially the Kurds), combined with the argument that they enforced the terms of the ceasefire set out in Resolution 678. However, it should be noted that not all actions against renegades are regarded as legitimate. In 2003, the United States made an attempt to justify its actions against Iraq in terms of anticipatory self-defense against an unreliable rogue state as well as the enforcement of the ceasefire terms under Resolution 678. While some states supported the United States militarily or politically, the majority of states branded the intervention as illegal – and even as a violation of one of the peremptory norms of international law, the prohibition on aggression.

The labeling of states as renegades may also affect the scope of their rights under general international law. An illustration is the development of the right of self-defense against armed attacks originating from non-state actors. In this context, Simpson has made the argument that the broad support for the 2001 intervention in Afghanistan can only be understood if one takes into account that this intervention was undertaken by a hegemonic power in the territory of a state that had been branded as a persistent violator of international law by the Security Council for years (2004). In cases which involve two equal sovereigns, Simpson argues, a right to self-defense against attacks by non-state actors is not likely to receive equally broad support; this would change, however, when a Great Power confronts a renegade state: ‘In an encounter between a great power and an outlaw state, the sovereignty norms associated with a traditional conception of international law are suspended’ (Simpson 2004: 336).

Simpson’s statement raises an interesting question. What is the impact of the reputation of a state on the interpretation of its rights under international law? It may very well be, as Simpson argues, that the reputation of a state affects the understanding of its rights and obligations under international law. However, the example he provides is not entirely convincing to substantiate the argument. After all, U.S. intervention in Afghanistan has not been treated as an exception which only applies to situations where hegemonic powers are faced with attacks from non-state actors operating from the territory of a renegade

state. On the contrary, the United States-Afghanistan example has been used by scholars (some) judges and states as the starting point of a new interpretation of the right to self-defense against attacks by non-state actors (Separate Opinion of Judge Kooijmans in the Advisory Opinion on the Legal Consequences of a Wall on the Occupied Palestinian Territory 2004: paragraph 35). The right to self-defense against non-state actors has been invoked in a wide variety of conflicts, including Tajikistan-Afghanistan, Burundi-Tanzania, Iran-Iraq, Israel-Lebanon and Turkey-Iraq (Ruys and Verhoeven 2005).

According to the International Court of Justice, there is no right to self-defense against attacks from non-state actors (Case Concerning Armed Activities on the Territory of the Congo (*Democratic Republic of Congo vs. Uganda*) 2005). State practice, however, has shown a more nuanced picture. When states invoked a right to self-defense against attacks by non-state actors, third-party states are seldom denied a right to self-defense against attacks from non-state actors *per se*. On the contrary: the existence of such a right was often explicitly acknowledged. The exercise of this right, however, is made conditional upon factors such as necessity and proportionality. In other words: the state which invokes the right to self-defense should show that it has no other options but to use force and that the use of force is not disproportionate. In this context, the reputation of states could very well become important again. One would expect that the necessity argument is easier to make when attacks originate from the territories of renegade states than from territories of states of good international standing.

While the argument presented above is in need of further empirical backing, anecdotal evidence for the importance of a state's good standing can be found in another area of conflict and security law: the regulation of humanitarian intervention.<sup>10</sup> The large majority of states (and commentators) regards humanitarian interventions that are not authorized by the Security Council as illegal (see Holzgrefe and Keohane 2003). However, state practice has shown a great variety of responses to such illegal acts. Some were condemned outrightly, some tolerated or condoned and others were praised as a contribution to alleviating human suffering (Franck 2002: Chapter 9). So far, scholars have identified several factors that help explain the difference in response, including the effectiveness of the intervention, the substantive interests at stake and the reputation of both the intervening power and the state on whose territory the intervention took place (see Hakimi 2007). Here again, the persistent labeling of a state or regime as violator of basic community norms may affect the response of states (and the UN Security Council

itself) to armed interventions. Even though unauthorized humanitarian intervention is still broadly regarded as illegal, the response to that illegality partly depends on the good (or bad) standing of the states and organizations concerned.

## The criminalization of states and regimes

### The absence of criminal responsibility of states

International law does not know a separate form of criminal responsibility for states, let alone the notion of a 'criminal state'. The proposal to include a special form of responsibility for breaches of fundamental norms of international law was considered during the negotiations on the Articles on State Responsibility by the International Law Commission (ILC). For a considerable period of time, the commission debated the drafting of an article that would create a separate responsibility for breaches of obligations that are regarded as so essential for the protection of fundamental interests of the international community that the community as a whole recognizes that breach as a crime (the initial draft Article 19 (2)).<sup>11</sup> Proponents of the article argued that the recognition of a core of fundamental and hierarchical superior norms (such as the prohibition on genocide) should be reflected in aggravated forms of responsibility. In their view, it would be unacceptable that a failure to live up to obligations stemming from, say, a bilateral trade agreement would have similar legal consequences as acts of aggression or genocide. Critics of the article, however, pointed at the vagueness of the notion of the 'international community', the risk of abuse of such notions and the incompatibility of criminal law analogies in the relations between sovereign, equal states. At the end of the day, those skeptical of including a separate form of criminal responsibility had it their way. Provisions relating to criminal state responsibility were deleted from the ILC Articles and all that remained were some rather lightly formulated provisions regarding the consequences of breaches of peremptory norms whose status as binding international law remains unclear.<sup>12</sup>

Now this all does not rule out that states can be held responsible for what are regarded as international crimes; acts such as genocide, crimes against humanity and war crimes. What is absent is a specific *form* of responsibility; international criminal responsibility. However, what still remains is the modus of state responsibility as laid down, *inter alia* in the articles on state responsibility. Under general international law, states can still incur responsibility in the traditional way: through

the invocation by states (and sometimes even individuals)<sup>13</sup> that have suffered harm because of wrongful acts that can be attributed to the state concerned. An example is the finding of the International Court of Justice of Serbia's responsibility for not preventing acts of genocide in the territory of Bosnia-Herzegovina (Case Concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide (*Bosnia and Herzegovina vs. Serbia and Montenegro*) 2003). While Serbia was not found guilty of crimes of genocide, it was held responsible for violations of the Convention for the Prevention and Punishment of the *Crime* of Genocide (italics added). In this context, legal technicalities regarding the presence or absence of 'state crimes' may not be the most decisive issue. What matters in diplomatic circles, media, popular debate, and so on, is the determination that a state has been found responsible for violations of a convention that seeks to prevent and repress international crimes. Here the cohesion of international society has in effect linked states and international crimes, notwithstanding the absence of a specific criminal law definition of state responsibility. Of course, even such determinations are not tantamount to acts that label states as renegades; as perennial or unredeemable violators of basic community norms. Yet, finding a state responsible for involvement in international crimes certainly helps those that seek to label states or regimes as renegades. This is all the more relevant when a state (as was the case with Serbia) has already been subject to a series of Security Council Resolutions and disciplinary regimes – and especially when representatives of the regimes concerned are already put to trial before (international) criminal courts. In that case, as we will see below, states are criminalized through the backdoor.

### **The criminalization of states through the backdoor**

The role of criminal tribunals in the creation of renegade states is ambiguous. The establishment of (international) criminal tribunals after a conflict is often portrayed as an alternative to mechanisms which involve collective forms of guilt and criminality. Where treaties such as Versailles rest on the criminalization of a state or society, the argument goes. Tribunals such as Nuremberg focus on the individual and deny notions of collective guilt.<sup>14</sup> To a considerable extent this is correct: tribunals such as Nuremberg, the International Criminal Tribunal for the Former Yugoslavia (ICTY), the International Criminal Tribunal for Rwanda (ICTR) or the ICC (International Criminal Court) deal with individual criminal responsibility, not with state responsibility. Still, in several cases it is difficult to see how the two can be kept apart. There are



at least three reasons why international criminal trials have a tendency to go beyond questions of individual guilt, and implicate whole states or regimes as well: the nature of the trial, the nature of the crimes and the institutional position of the court or tribunal involved.

First, the nature of the trial is considered. Often international criminal trials are not just about the determination of individual guilt or innocence; they are also about constructing historical narratives, recording 'what happened', reconstructing identities and 'education'. In this context Koskenniemi quotes the address to the Nuremberg Tribunal by the French Prosecutor, who explicitly spoke of the tribunal's task in re-educating the German nation and de-legitimizing the Nazi regime as a whole:

The work of justice is equally indispensable for the future of the German people. These people have been for many years intoxicated by Nazism [...]. Their re-education is indispensable [...]. The initial condemnation of Nazi Germany by this Tribunal will be a first lesson to these people and will constitute the best starting point for the work of revision of values and of re-education which must be its great concern during the coming years.

(2012: 185)<sup>15</sup>

While other prosecutors may not use the same explicit language, the aims of recording history, and de-legitimizing particular regimes are also part of other international trials (Koskenniemi 2012). In this context, the notion of the 'joint criminal enterprise' as elaborated by the International Criminal Tribunal for the Former Yugoslavia is telling (see Ambos 2007 for a critical analysis). The notion of the joint criminal enterprise contains a highly controversial attempt to do justice to the fact that international crimes are 'often carried out by groups or individuals acting in pursuance of a common criminal design' (Prosecutor vs. Tadic' (Appeals Chamber) 1999: paragraph 195ff.). By linking individual guilt to such common design, international tribunals are forced to rule on general policies as well, recording what happened in the pursuit of certain policy aims and de-legitimizing the collective enterprise. Moving from questions of individual guilt to questions of legitimate rule is thus not just an accidental by-product of international criminal trials. International criminal justice is as much about symbolic validation and invalidation of collective enterprises as it is about individual guilt.<sup>16</sup> Especially in high profile cases, de-legitimizing particular forms and modes of government is one of the core functions of the trial (and one of the reasons why international criminal trials often become the topic of intense political contestation).

Second, the nature of the crime is considered. International crimes, while indeed committed by specific individuals, are collective crimes *par excellence* that normally require the involvement of organized groups. This is not only a practical, empirical requirement, but often also a legal, conceptual one. Crimes against humanity, for example, are defined in the ICC Statute as ‘policy crimes’, as acts committed ‘as part of a widespread or systematic attack directed against any civilian population’ (Article 7). Here, it is difficult to imagine how individual responsibility can be separated from collective policy – which in practice will often mean the policy of a state or government to breach peremptory norms of international law. The link to the state is even more explicit in the definition of torture, which is described as pain or suffering ‘inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity’ (Article 1 of the UN Convention against Torture of 1984). Another example of a very explicit link between individual and state responsibility is the crime of aggression, as included in the revised Rome Statute of the International Criminal Court (2002). While the ICC only has jurisdiction over individuals, the definition of aggression immediately implicates the state in the commitment of a crime. According to Article 8 (2) of the Rome Statute, acts of aggression are defined as ‘the use of armed force *by a State* against the sovereignty, territorial integrity or political independence of another State, or in any other manner inconsistent with the Charter of the United Nations’ (italics added).<sup>17</sup> In similar fashion, Article 15(b) determines that ‘[t]he court may, in accordance with Article 12, exercise jurisdiction over a crime of aggression, *arising from an act of aggression committed by a State Party [...]*’ (italics added). As these examples demonstrate, prosecuting international crimes will almost automatically implicate the regimes and states that made the commission of international crimes possible in the first place.

Third, the institutional position of international tribunals is taken into account. As was argued above, the nature of international trials and the nature of the crimes will often indirectly also implicate the state in whose name international crimes were committed. In and of itself, however, this does not necessarily mean that the state in question becomes labeled as a renegade or criminal state. It could very well be, for instance, that criminal trials are part and parcel of a program of transitional justice and an attempt to reintegrate the state in international society. However, criminal tribunals could also be part of a different logic, where the accused are seen as representatives of a criminal regime or state. In this context, it is important to recall the position

of several international criminal tribunals. The Yugoslavia tribunal, for example, was created by the Security Council, after the Council had repeatedly determined that fundamental norms had been violated and international security threatened by several parties in the conflict (United Nations 1993). In case of the ICC, the UN Security Council has the power to refer situations to the court and thus to determine its agenda to a considerable extent.<sup>18</sup> This makes it possible for the Council to involve the ICC in broader attempts to isolate, brand and discipline regimes. A case in point is the arrest warrant against the Sudanese President Al Bashir issued by the International Criminal Court. This warrant was issued as a result of the Security Council's referral of the situation in Darfur to the ICC (United Nations 2005). The referral by the Security Council was part of a longer series of resolutions which effectively labeled Sudan as persistent violator of basic community norms, imposed sanctions and an arms embargo, put Sudan under the obligation to disarm the *Janjaweed* and to accept international peacekeepers (Nouwen and Werner 2011 provide a more comprehensive analysis). In this context, the wording of the arrest warrant against the incumbent President of Sudan is of specific interest, as in effect it criminalizes the entire state apparatus: 'AL BASHIR ensured that all components of the Sudanese government, the Armed Forces and the Militia/Janjaweed worked together in carrying out his plan' (Public Redacted Version of the Prosecutor's Application under Article 58, ICC-02/05-157-Anxa 2008). Not surprisingly, the Sudanese government has treated the Security Council referral and the ICC arrest warrant as part of a bigger attempt to 'topple an Islamic regime which they do not approve of' (Sudan Bar Association 2008: 2). After all, the Prosecutor's request for warrant for the arrest of the Sudanese President is exactly about that, a fundamental change in a criminalized regime. The impression that the Council and the court were specifically aiming to discipline the Sudanese regime was reinforced by a discriminatory clause in the resolution that protected non-Sudanese nationals from the jurisdiction of the ICC, provided their state was not party to the Rome Statute.<sup>19</sup> Against this background it becomes very difficult to maintain that the Darfur resolution was just about ending impunity for crimes committed by individuals in the region; the nationality of an individual proves to be equally important for the jurisdiction of the court.

The Bashir example shows how international criminal tribunals can be involved in the creation and management of renegade states. Especially where criminal courts and tribunals act pursuant to resolutions of the Security Council and deal with high state officials, they are

likely to become part of a broader regime that labels governments as renegades and that seeks to take extraordinary measures to deal with them. The example of Libya is another case in point. The situation in Libya was referred to the International Criminal Court by the Security Council in Resolution 1970 (United Nations 2011). The resolution reaffirms the sovereign equality, national unity and territorial independence of Libya. While this may look like a reassurance towards the Libyan authorities, it actually should be read as a reaffirmation of the logic of inclusion and exclusion discussed in the first of this chapter. The Qaddafi regime was reminded of its responsibilities as a sovereign player in an international order which includes human rights and individual criminal responsibility. The situation in Libya was considered under Chapter VII of the UN Charter, which makes it a matter affecting 'international peace and security', thus signaling danger. At the same time, the acts of the Qaddafi regime are described as crimes against humanity— thus signaling criminality. In order to thwart the dangerous and criminal character of the Qaddafi regime, it is subjected to a series of corrective, preventative and punitive measures, including a referral to the International Criminal Court, military intervention, an arms embargo, freezing of assets and travel bans. While the ICC may thus present itself as a court focusing on individual guilt only, it can also be part of a broader attempt to present regimes as renegades and to subject them to disciplinary measures.

## **Conclusion**

The use of international law in the labeling and disciplining of renegade states is a good example of what Shklar has called the 'policy of legalism'; the attempt to pursue political ends through legal rules that are presented as pre-existing and neutral (Shklar 1964). The incorporation of universal norms in fields such as human rights, peace and security and the laws of armed conflict has made it easier to present certain states as unredeemable violators of given legal norms that hold international society together. At the same time, international law has provided a vocabulary for those who want to resist attempts at 'renegading' states. Post-1945 international law has a strong presumption in favor of sovereign equality and offers far-reaching protection against foreign intervention. All parties involved in political contestations regarding 'renegades' can thus invoke international law as a presumably neutral ground for labeling states, for resisting such labels and for 'counter-labeling' those who do not respect the sovereignty of the renegade state.

Things look different, however, when the Security Council is involved. Under the UN Charter the Security Council is empowered to set aside provisions that normally protect the sovereignty of states. This has made it possible for the Security Council to *de facto* label a number of states (such as South Africa during apartheid, Rhodesia, Iraq, Sudan) as persistent violators of basic community norms. The labeling of states was accompanied by sometimes far-reaching regimes which deprived renegade states of several of the legal prerogatives that other sovereign states enjoy. When the Security Council labels a state as renegade, this may have consequences that go beyond the specific measures taken by the Council. The reputation of a state can have consequences for the interpretation of its rights and obligations vis-à-vis other states, for example, in the area of self-defense or humanitarian intervention.

The impact of Security Council Resolutions can be further strengthened when they are linked to actions by international criminal courts and tribunals. Formally, international criminal law is only about individual guilt or innocence; not about collective responsibility. However, the nature of crimes, the nature of the trials and the institutional position of several international courts make it virtually impossible to separate individual responsibility from responsibility of regimes. Especially when the regime in question is already subject to disciplinary measures by the Security Council, international tribunals could contribute to its (further) criminalization. The fact that international criminal courts and tribunals work on the basis of strict legal requirements and formally only focus on individuals makes them even more important in the politics of legalism. Because of that, they are able to provide a presumably neutral basis to label regimes as violators of those norms that international society holds dearest.

## Notes

1. The sharpest (and probably most controversial) development of this idea can be found in Schmitt (2003). For a critical discussion of Schmitt's ideas regarding the changing nature of war see Werner (2010).
2. There are examples of effective governments that were unable to speak in the name of the state as a whole, though. One of the clearest examples was the government of Rhodesia in 1965. The racist basis of the Rhodesian government precluded the coming into being of the new state as such, despite the fact that the self-declared government exercised effective control over a population and a territory.
3. The formal expression of *ius cogens* can be found in the Articles 53 and 64 of the Vienna Conventions on the Law of Treaties. Article 53 defines a general peremptory norm as a 'norm accepted and recognized by the international

- community of States as a whole as a norm from which no derogation is permitted and which can be modified only by a subsequent norm of general international law having the same character'. Since then, the notion of *ius cogens* has entered other fields of international law, such as international criminal law, where courts used *ius cogens* to underline the importance of the norms and values at stake.
4. For an early definition see the International Convention on the Suppression and Punishment of the Crime of Apartheid. The crime of apartheid is now also included in the Rome Statute of the International Criminal Court, under crimes against humanity (Article 7).
  5. See for example: 'The act of recognition has no legal effect on the international personality of the entity: it does not confer rights, nor does it impose obligations on it' (Cassese 2005: 73–4).
  6. Neff (2005) provides a discussion of the importance of measures short of war in the inter-war period
  7. See the next section.
  8. Note, however, that through Article 94 the Council does enjoy formal powers in the enforcement of decisions by the International Court of Justice.
  9. Or, of course, if they could be regarded as actions in self-defense in accordance with Article 51 of the UN Charter.
  10. Humanitarian intervention is here understood as: (1) the use of force against another state which is (2) justified by the intervening state in terms of humanitarian concerns (ending gross human rights violations, humanitarian catastrophes, etc.). Whether the intervention was 'really' motivated by humanitarian concerns is not the issue here; what counts is the reasons given for the intervention and the responses of other states and international organizations to the intervention and the official justification given.
  11. Crawford et al. (2010) provide an excellent overview of the law of state responsibility.
  12. See Articles 40, 41 and 48. Basically the consequences are that other States 'shall cooperate to bring to an end through lawful means' (Article 41), 'no State shall recognize as lawful a situation created by a serious breach' (Article 41), 'whereas States other than an injured State is entitled to invoke the responsibility' (Article 48) and ask for 'cessation of the internationally wrongful act, [...] assurances and guarantees of non-repetition [...] and performance of the obligation of reparation [...] in the interest of the injured State or of the beneficiaries of the obligation breached' (Article 48).
  13. For example the right of individual petition before the European Court of Human Rights.
  14. The Nuremberg Tribunal explicitly took pride in its focus on individuals rather than abstract entities such as states: 'crimes against international law are committed by men, not by abstract entities, and only by punishing individuals who commit such crimes can the provisions of international law be enforced'. For a comparison between the Versailles model and the Nuremberg model see Simpson (2004: 260–77).
  15. Referring to the quote in Marrus (1997: 90).
  16. For an excellent discussion of the 'senses and sensibilities' of international criminal justice, see Tallgren (2002).

17. Note that not all acts of aggression fall under the crime of aggression as included in the Rome Statute. Individuals can incur criminal responsibility only for those acts of aggression which 'its character, gravity and scale, constitute a manifest violation of the Charter of the United Nations' (Article 8 (1) of Rome Statute).
18. The two other ways in which the ICC gets its cases are via referral of a situation by a state party or through an initiative of the Prosecutor. The power of referral of the Security Council is laid down in Article 13 of the Rome Statute. Note that the Council also has the power of *deferral* under Article 16; the power to put investigations and prosecutions on hold for a renewable period of 12 months.
19. The wording of Paragraph 6 of Resolution 1593 is as follows:

nationals, current or former officials or personnel from a contributing State outside Sudan which is not a party to the Rome Statute of the International Criminal Court shall be subject to the exclusive jurisdiction of that contributing State for all alleged acts or omissions arising out of or related to operations in Sudan established or authorized by the Council or the African Union, unless such exclusive jurisdiction has been expressly waived by that contributing State. (United Nations 2005)

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