

The Peace of Westphalia

Chair:

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Hello delegates!

My name is Christoph Buhne, and it is a pleasure to be your Chair for Peace of Westphalia. I am a fourth year student of International Development Studies at McGill, with interests in international relations and history (so you can see why I chose this committee!). SSUNS has been a key part of my five year long MUN experience, so it is my pleasure to head my first committee at SSUNS 2017 with a topic I have been passionate about for a long time with such a great team. Said team consists of Emily Dawe, Isabella Anderson, John Weston, and Vicky Cheng, who also have the privilege of having their first Vice Chairing experience in this committee. Through our hard work both the character list and topics have been selected to be a good balance of accuracy to the actual proceedings but also tailored to ensure a lively flow of debate.

The topic of religious self determination promises to examine the burning issues of inter faith conflict and oppression which has caused so much suffering, and find a method by which future violence can be avoided. Another theatre of conflict between the states of Europe has been over the control of Holy Roman Empire and the power its offices give, which will similarly need to be remedied in the wake of such a brutal war. And with an eye to the trend of history, new frameworks and norms need to be built to match the evolving political world of the 17th century. Lastly but not least, the crisis promises to highlight an part of this historical world that we often neglect when studying it, but would prove to be vital to the fate of Europe.

We hope the choice of topics and subsequent debate will allow you to gain a deeper understanding not just 17th century Europe and its various dynamics, but also the building blocks of what has come to be the modern international order that were laid in Westphalia.

With all that said, we look forwards to what is sure to be an exciting committee.

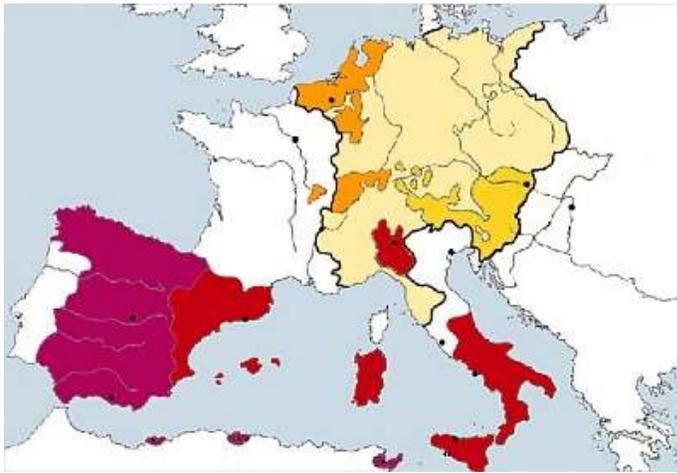
Christoph Buhne
Chair, Peace of Westphalia
SSUNS 2017



Topic #1: The Holy Roman Empire

Origins of the *Sacrum Romanum Imperium*

Lasting over ten centuries, the concept of the Holy Roman Empire (HRE), was first established in 800 A.D. with the marriage between Charlemagne and the Roman Papacy as Pope Leo III bestowed the authority and traditions of the Caesars to Charlemagne in return for his acknowledgment of the Church's spiritual superiority over his secular power¹. Having existed for over ten centuries, the official territory of the HRE



Holy Roman Empire of the German Nation, Charles V
(Source: Werbeko Netshop)

spanned across central Europe at its strongest, including Eastern France, Luxembourg, Germany, Austria, the Netherlands, Czechoslovakia, the Italian Peninsula, Belgium, Hungary, Croatia, Poland and Western Ukraine². In the centuries following Charlemagne, the relationship between the State and Church became contentious as the dynamics drastically varied from emperor to emperor, but the complex politics were further exacerbated by the multi-ethnicity of the HRE³. The territories governed by European war lords

whose families later became warrior clans, and the Papacy was first referred as the *Sacrum Romanum Imperium* or the HRE starting from 1254 as it was founded upon the notion of the continual transfer of an imperium investing supreme power in a single ruler. This concept was fundamental to the emperor's prestige, authority and imperial dignity⁴.

One warrior clan that dominated most the HRE's rulership was the House of Habsburg, who fought to maintain their claim of the throne and to dominate the Papacy. Therefore, the Habsburgs promoted dynastic marriages between cousins, keeping inheritances within the family and away from the Church. Habsburg in-breeding was politically effective, but over the centuries, various mental illnesses and physical deformities plagued future kings⁵. The Papacy attempted to reclaim its authority over the royal succession in 1356 by defining the position of the Holy Roman Emperor as an elected position. Henceforth, candidates for the Crown needed to win the support from at least four of seven Electors. The sole requirements were that the candidates must have to be male and of noble blood, but since much of the Electors adhered to Catholicism, no

¹ Geoffrey Barraclough, "Holy Roman Empire", *Encyclopaedia Britannica*, accessed May 23, 2017.

² "Timeline: Holy Roman Empire", *HistoryWorld*, last modified 2012, <http://www.oxfordreference.com/view/10.1093/acref/9780191737619.timeline.0001>.

³ Geoffrey Barraclough, "Holy Roman Empire", *Encyclopaedia Britannica*, accessed May 23, 2017.

⁴ *Ibid.*

⁵ Martin Mutschlechner, "The House of Austria- the Habsburgs and the Empire", *The World of the Habsburg*, accessed May 23, 2017, <http://www.habsburger.net/en/chapter/house-austria-habsburgs-and-empire?language=de>.



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Protestants were ever elected. This did not stop the Habsburg family from reclaiming the throne, but in the election leading to the reign of Charles V in 1521, large concessions of land and money were offered to Electors to secure their vote⁶.

Starting his rule in debt caused uncertainty and instability throughout the fractious, polyglot empire as the Emperor could not directly levy taxes from his subjects, which inhibited the formation of an army raised from its own territory⁷. Yet through the ambitious families of his parents, Charles V possessed great power and influence which allowed him to claim Spain, parts of Italy (Naples and Sicily), the New World and the German lands of his grandfather and predecessor, Maximilian I. His background allowed him to access massive deposits of gold and silver from the New World, Renaissance banking fortunes of Italy and the Netherlands, and military power from Spain⁸. Unfortunately, the existing political and religious tensions of the Empire were not resolved as German merchants believed they were guaranteed certain political rights by the time Charles V began his reign. Moreover, Protestantism gained great momentum through the Reformation, which eventually ended with the Treaty of Westphalia in 1648⁹.

Today's views on the HRE's origin, function and justification are heterogeneous, but the two most popular theories depict the Empire as either a secular arm of the Church that is set up by the Papacy for its own purposes or a vehicle of conquest and hegemony to grant the Emperors with the most power possible by the means of conquest and hegemony as they were directly responsible to God¹⁰.

The Protestant Reformation

The Protestant Reformation began in 1517 and it radically shook the foundations of the HRE as it led to intense religious segregation, ultimately breaking Christianity into countless denominations. Since the fourth century, Roman Catholicism was the dominant form of Christianity and it governed most, if not all, aspects of everyday life as the Church protected people's souls. Hence, parish priests baptized, married, provided last rites for the people, and heard their confessions¹¹. Furthermore, the Church provided all of society's social services, distributing aid to the poor, operated orphanages and provided whatever education was available. Over time, the Church accumulated massive



Luther at the Diet of Worms, 1521
Source: Posterlounge

⁶ Geoffrey Barraclough, "Holy Roman Empire", *Encyclopaedia Britannica*, accessed May 23, 2017.

⁷ *Ibid.*

⁸ Michael de Ferdinandy, "Charles V", *Encyclopaedia Britannica*, last modified June 12, 2016.

⁹ Geoffrey Barraclough, "Holy Roman Empire", *Encyclopaedia Britannica*, accessed May 23, 2017.

¹⁰ *Ibid.*

¹¹ "The Priest, Pastor and Leader of the Parish Community", *The Holy See Press*, accessed May 23, 2017, http://www.vatican.va/roman_curia/congregations/ccclergy/documents/rc_con_ccclergy_doc_20020804_istruzione-presbitero_en.html.



political and religious power as it owned approximately one-third of Europe's land and the Pope claimed absolute authority over all the kings of Europe as one would become the successor to the Holy Roman Emperor¹².

One key contributor to the Reformation's was Martin Luther, who believed that salvation came through faith rather than good works such as prayer, fasting, pilgrimages or giving to the poor¹³. In other words, no one could ever be good or worthy enough to attain salvation as one could only have faith and that the Bible, not tradition, should be the sole source of spiritual authority¹⁴. In his anger and frustration towards the Pope's sale of reprieves from penance, Luther wrote *95 Theses* and was summoned before the Imperial Diet of Worms in 1521. The Holy Roman Emperor, Charles V, excommunicated Luther. However, he underestimated Luther's influence driven by the printing press as over 2000 copies of Luther's writings were published between 1517 and 1526 in the form of pamphlets, posters and cartoons. Moreover, he translated the Bible into German and for the first time in history, common people could read, memorize, quote and discuss scripture for themselves¹⁵.

Luther's doctrinal dispute rapidly accelerated into a social revolt as German peasants took up Luther's ideas to voice their longstanding grievances against landlords and clergymen in 1525¹⁶. They rebelled, refused to pay taxes, pillaged the Church's lands and raised an army approximately 300 000 strong. Yet, Luther sided with the elite, stating that "Christian liberty" was a spiritual concept not meant to be manifested as equality or freedom in the physical world, hence he urged his followers to smite and slay the rebels¹⁷. He also acknowledged the holy appointment of princes and kings by God as caretakers of the Church for social stability and success. The princes supported Lutheranism because it allowed them to confiscate Church land and wealth, collect Church taxes and use the land for private initiatives. Ultimately, the HRE was fatally divided along religious lines with the North, East and major cities being Protestant while the South and West were Catholic¹⁸.

Ending with the Peace of Westphalia in 1648, the Protestant Reformation was undoubtedly one of Europe's greatest political, religious and intellectual movements that arguably led to wider European literacy, greater religious tolerance and cultural flourishing, setting in place the structure and beliefs that would define Europe in the modern era¹⁹.

Institutions

Under Christendom and the Church, the HRE was viewed as a political institution, the secular counterpart of religion that represented the vehicle of God's will

¹² Geoffrey Barraclough, "Holy Roman Empire", *Encyclopaedia Britannica*, accessed May 23, 2017.

¹³ Editors of Encyclopaedia Britannica, "Reformation", *Encyclopaedia Britannica*, last modified February 15, 2017.

¹⁴ "The Reformation", *A&E Television Networks History*, last accessed May 23, 2017, <http://www.history.com/topics/reformation>.

¹⁵ Ibid.

¹⁶ Luther at the Diet of Worms 1521, *Posterlounge*, accessed May 23, 2017.

¹⁷ Editors of Encyclopaedia Britannica, "Reformation", *Encyclopaedia Britannica*, last modified February 15, 2017.

¹⁸ Geoffrey Barraclough, "Holy Roman Empire", *Encyclopaedia Britannica*, accessed May 23, 2017.

¹⁹ "The Reformation", *A&E Television Networks History*, last accessed May 23, 2017, <http://www.history.com/topics/reformation>.



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for the world²⁰.

Realistically, however, the Empire never achieved full political unification as its territorial fragmentation into principalities, counties, duchies and Free Imperial Cities drastically limited the monarchy. The kings, dukes, counts and bishops were officially recognized as vassals to the HRE, owing their absolute allegiance, but their extensive privileges gave them de facto independence within their territory.

Nonetheless, there was no authority above the hereditary noblemen other than the Holy Roman Emperor²¹.

The primary legislative body of the HRE was the Imperial Diet (Reichstag), consisting of three colleges or councils. The first class consisted of seven electoral princes, the second was the Council of Princes in which some were secular and others were ecclesiastical, and the third class consisted of the Imperial Cities²². Theoretically superior to the Holy Roman Emperor, the Reichstag possessed effective legal powers over issues of the Empire as each college met separately to make a decision and combined them to form a resolution, the “Reichsabschied” or recess of the empire, which would be sent to the Emperor. Despite congregating individually, the Imperial Diet was fundamentally built upon the notion of a single empire united by its members’ common aims, hence the Holy Roman Emperor chose the part(s) of the recess he wished to ratify and could not modify the wording of it²³. During the tumultuous years of 17th century Europe, the Diet strongly influenced the HRE’s decisions of war or peace, but the Peace of Westphalia ultimately led to its final breakdown as princes gained sovereignty over their territory and became indifferent both religiously and politically to the Emperor²⁴.

Free Imperial Cities were the only territories subject exclusively under the jurisdiction of the Holy Roman Emperor²⁵. Throughout history, these cities were central to the functioning of imperial circles as the HRE would form regional groupings specifically for the purposes of defense, imperial taxation, minting, peace keeping and public security. Moreover, each circle had its own parliament to coordinate and govern over the Circle’s affairs²⁶.

The Empire’s military power was classified as either the Army of the Empire or the Imperial Army. Often being confused with the Imperial Army, the Army of the Empire was a non-permanent standing army that was always ready to fight for the Empire. However, in practice, the imperial troops had local allegiances that were stronger than their loyalty to the Holy Roman Emperor as fixed contingents of soldiers were provided by the Imperial Circles²⁷. The Imperial Army could only be deployed with the consent of the Imperial Diet and the recruits were loyal to the Empire. Therefore, the

²⁰ Geoffrey Barraclough, “Holy Roman Empire”, *Encyclopaedia Britannica*, accessed May 23, 2017.

²¹ Francois Velde, “The Holy Roman Empire”, *Heraldica.org*, last modified March 9, 2013, <http://www.heraldica.org/topics/national/hre.htm>.

²² Editors of Encyclopaedia Britannica, “Diet”, *Encyclopaedia Britannica*, accessed May 23, 2017.

²³ Ibid.

²⁴ Editors of Encyclopaedia Britannica, “Peace of Westphalia”, *Encyclopaedia Britannica*, accessed May 23, 2017.

²⁵ Francois Velde, “The Holy Roman Empire”, *Heraldica.org*, last modified March 9, 2013, <http://www.heraldica.org/topics/national/hre.htm>.

²⁶ “Imperial Circles c. 1512”, *German History in Documents and Images*, accessed May 23, 2017, http://germanhistorydocs.ghi-dc.org/map.cfm?map_id=2809.

²⁷ “Imperial Army of the Holy Roman Empire”, *Holy Roman Empire Association*, accessed May 23, 2017.



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Imperial Army

effectively became the standing army for the House of Habsburg who occupied the HRE throne for 300 years²⁸.

Conclusion

In 1648, the Peace of Westphalia ended the Thirty Years' War, one of Europe's longest and most destructive conflicts that resulted in eight million casualties. Beginning in 1618, the war was initially religious as it pitted Protestant against Catholic states in a fragmented Holy Roman Empire, but it gradually developed into a general conflict involving Europe's great powers. Two treaties were signed between the HRE and Sweden and France, representing a compromise for full and final peace despite fundamentally changing the imperial system of the Empire with its original ideas and radical cuts. The religious terms were realistic and lasting while the political settlement was legalistic and conservative, marking a milestone in the development towards tolerance and secularization in both Europe and international relations²⁹. Larger states within the HRE exploited their newly granted rights and liberties, hoping to become fully sovereign and independent while smaller states preferred the safety and security of the Empire.³⁰ However, the Holy Roman Emperor undoubtedly lost power as the imperial bureaucracy became cumbersome and impractical, eventually leading to its dissolution in 1806 by Napoleon³¹.

Questions to Consider

- During the late 16th century, what purpose did the Church practically serve? Can it realistically retain its current degree of autonomy and influence?
- To what extent should power remain in the hands of the Princes? What, if any, should be the Holy Roman Emperor's role in the HRE's political system?
- Is a unified Empire possible, or desirable?
- What are the relative considerations of profit, security and tradition?

²⁸ Martin Mutschlechner, "The House of Austria- the Habsburgs and the Empire", *The World of the Habsburg*, accessed May 23, 2017, <http://www.habsburger.net/en/chapter/house-austria-habsburgs-and-empire?language=de>.

²⁹ Anuschka Tischer, "Peace of Westphalia 1648", *Oxford Bibliographies*, accessed June 24, 2017, <http://www.oxfordbibliographies.com/view/document/obo-9780199743292/obo-9780199743292-0073.xml>

³⁰ "Westphalia, Peace of (1648)." *Europe, 1450 to 1789: Encyclopedia of the Early Modern World*, accessed June 24, 2017, <http://www.encyclopedia.com/history/encyclopedias-almanacs-transcripts-and-maps/westphalia-peace-1648>

³¹ Richard Cavendish, "The End of the Holy Roman Empire", <http://www.historytoday.com/richard-cavendish/end-holy-roman-empire>



Topic #2: Religious National Self-Determination

Religion and politics have often come in hand-in-hand throughout European history, and the Peace of Westphalia is no different. Set to bring an end to both the Thirty Years' and Eighty Years' Wars, the Peace of Westphalia's success is partly dependent on religious and political cooperation among states, and what implications the related provisions within the Peace's treaties may have regarding the present and future of religious rights. Therefore, it is imperative that the delegates present at the Peace of Westphalia make their thoughts known on the religious tenets of these negotiations, taking into consideration the various consequences of implementing religious national self-determination. It will also be important to identify whether the suggested route is mutually beneficial for individual states and the international community, or if alternative routes to peace exist that can produce improved results.

The Thirty Years' War

Stemming from Europe's Wars of Religion, the Thirty Years' War was rooted in an intersection of religion and politics that not only influenced the motives behind its key participants, but created the need for the very negotiations taking place during the Peace of Westphalia.

Many theories have emerged seeking to identify the distinct causal factors that produced the conflict, one of these being a lack of autonomy related to the fusion of church and state in the Empire. This idea draws on the notion of 'confessionalization,' and analyzes the relationship between political centralization and the formation of distinct sectarian identities following the Reformation.³² Confessionalization

proceeds from the general observation that in the Middle Ages as well as in the early modern period in Europe, religion and politics were closely linked with each other.³³ Therefore there was always a connection between confession-building (a state's societal



Figure 1: "The Thirty Years' War" (source: Encyclopædia Britannica)

³² Wilson, Peter H. 2008. "The Causes of the Thirty Years' War 1618-1648." *The English Historical Review* (Oxford University Press) 123 (502): 554-586.

³³ Lotz-Heumann, Ute. 2001. "The Concept Of" Confessionalization": A Historiographical Paradigm in Dispute." *Memoria Y Civilización* (4): 93-114.



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adherence to a particular faith) and early modern state formation. These processes could interact in different ways, and in most cases confessionalization "enabled states and societies to integrate more tightly."³⁴ For example, in the Holy Roman Empire, this was the case if the principle of 'cuius regio, eius religio,' established by the Peace of Augsburg in 1555, was successfully enforced by the German princes in their territories. However, confessionalization could also provoke "confrontation with religious and political groups fundamentally opposed to this... integration of state and society."³⁵

Given that the permanent schism after 1517 weakened the bonds of universal Christendom and created new divisions within the empire, the continued blending of church and state made it "impossible to disassociate religion and politics, and raised new problems as to how political action could be legitimized."³⁶ With a common solution to most conflict being the enforcement of religious uniformity as a bedrock for political stability, any form of religious dissent was often linked to rebellion, thus giving a 'confessional edge'³⁷ to any rebellions in which differences of religion overlapped with a resistance to centralization.

As a result, while confessional solidarity may have reduced conflict between states practicing the same faith, it also created new possibilities for international alliances that could link conflicts in one part of Europe with those in another. This is a foundational ideology behind the Thirty Years' War as being a struggle over the religious and political order of Central Europe, and explains the need for the Peace of Westphalia to address negotiations of a religious nature in the context of securing a secular agreement between states seeking to resolve the current political conflicts that have plagued Europe, and likely will continue to create conflict if they are not properly negotiated.

Delegates present at the Peace of Westphalia must be mindful of the ways in which religion and religious difference have had political consequences across Europe, and must strive to work toward greater state legitimacy when it comes to matters of religion and political control, lest there be future challenges to the very authorities that have emerged from the same conflicts, seemingly victorious.

Towards Religious National Self-Determination

Of all the provisions contained in the Peace of Westphalia, perhaps no two are more intriguing than the ideas contained in the ecclesiastical settlement. First, the Peace of Westphalia sets out to confirm the Peace of Augsburg (1555), which had granted Lutherans religious tolerance in the Holy Roman Empire before being rescinded by the

³⁴ Ibid.

³⁵ Ibid.

³⁶ Wilson 2008.

³⁷ Ibid.



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Holy Roman emperor Ferdinand II in his Edict of Restitution (1629)³⁸. Second, the peace settlement seeks to extend the Peace of Augsburg's provisions for religious toleration to the Reformed (Calvinist) Church, thus securing toleration for the three great religious communities of the empire—Roman Catholic, Lutheran, and Calvinist. Within these limits, the member states of the empire would be bound to allow at least “private worship, liberty of conscience, and the right of emigration to all religious minorities and dissidents within their domains.”³⁹ However, these measures of toleration would not be extended to non-Catholics in the hereditary lands of the house of Habsburg.

The Peace of Augsburg was originally regarded as a turning point in the settlement of German religious conflict, under the guidance of future emperor Ferdinand I during the Diet of the Holy Roman Empire in 1555. However, in the years following the creation of the Peace of Augsburg, the aforementioned Thirty Years' War broke out, a conflict widely believed to have been caused by unstable provisions contained in the Augsburg agreement, and warranting the Peace of Westphalia in the search for peace within Europe.⁴⁰



Figure 1: "Ferdinand I, engraving by Barthel Beham, 1531"
(source: *Archiv für Kunst und Geschichte, Berlin*)

The passing of the Augsburg settlement was the first attempt to reconcile the Catholic constitution of the Holy Roman Empire – which had designated Catholicism as the universal religion – with the rise of Lutheranism in territories within the empire. Far from being an actual religious peace – there was no agreement concerning theological issues whatsoever – the Augsburg settlement was merely about the legal aspect of quarrels over church property and the validity of certain legal rules. The question was more of a constitutional nature: “Did the territorial sovereigns have the authority within the constitutional framework of the Empire to intervene in ecclesiastical matters and determine the faith of their subjects as well as the legal rules associated with religion within their territories?”⁴¹ This authority, called the ‘right of reform,’ had no precedent in church or imperial law before the

Reformation, when no choice of religious affiliation existed, and it is important to note that the right of reform was granted only to Lutheran Protestants, while Calvinists and other Protestant denominations – as well as Jewish people and other non-Christians –

³⁸ Encyclopedia Britannica. 2015. Peace of Westphalia. October 15. Accessed April 2017.

<https://www.britannica.com/event/Peace-of-Westphalia>.

³⁹ Ibid.

⁴⁰ Straumann, Benjamin. 2008. "The Peace of Westphalia as a Secular Constitution." *Constellations: An International Journal of Critical and Democratic Theory* 15 (2): 173-188.

⁴¹ Ibid.



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were explicitly excluded from this Augsburg regime. The Catholic and Lutheran Churches were thus recognized, and this legal split between faith options from territory to territory was then built into the new constitution – an integration that has been regarded as a main reason for the continued religious-political conflict throughout Europe that consequently became a foundation for the Thirty Years' War and the need for the Peace of Westphalia.⁴²

The Westphalian treaties, in an effort to resolve the end of the Thirty Years' War, offer a way to clear the gridlock between the Protestant and Catholic ruling authorities by abolishing the principle of the right of reform altogether for most territories of the Empire, and by establishing a certain protection for subjects of different faiths “vis-à-vis their territorial authorities.”⁴³ All the controversial religious issues are to be dealt with by freezing in place the conditions as of January 1, 1624, a date that also offers compromise between the Protestant demand (1618) and the Catholic request (1627). This will mean that church property, insofar as it has been secularized by Protestant estates or restituted by Catholic territories after 1624, will have to be returned to whoever had title to it as of January 1, 1624. For individuals in Europe, this means that their right to emigrate as established at Augsburg will be supplemented with far more extensive rights to practice their religion to the extent they had practiced it in 1624, regardless of whether they had done so publicly or privately, and regardless of any future faith conversion of their territorial prince.⁴⁴

The possibility for an official Westphalian recognition and extension of the tenets of the Peace of Augsburg is interesting not just in the historical context of the Peace of Augsburg's initial fate, but also in the legal and constitutional context of deciding how to integrate religion into the self-determination of nations within the empire – not to mention the implications of such a secular approach to religious matters – especially with regard to the legitimacy of state authority. It will be important as well for delegates present at Westphalia to identify any contention that may arise with regard to which religious communities will gain rights under the proposed tenets, and whether it is viable to resolve such contention in the present or if measures should be taken to ensure the possibility of addressing future contentions.

Questions to Consider

- What impact has religion had on your character and/or your character's country?
- What does your character advocate for in terms of the religious national self-determination proposed by the Peace of Westphalia?
- Are the two main tenets of the Peace enough to address the current religious-political tensions?
- What impact(s) will upholding these provisions have on your character, your character's interests, and the international community?

⁴² Ibid.

⁴³ Ibid.

⁴⁴ Encyclopedia Britannica 2015.



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- Are there alternate routes that can or should be taken to adequately address the intersection of religion and politics in the Peace of Westphalia? What might these look like, and what effects might they have?



Topic #3: Sovereignty and International Law

The end of the Thirty Years' War has brought an opportunity for the states from all over Europe to work together to formalize a system of international law that has been on the rise for over a century. The concept of sovereignty has been around since the Romans ruled. However, it was only ever used on an internal scale to organize and display power on their own territories and people.⁴⁵ The issue of sovereignty needs to be

addressed in any treaty that comes out of the negotiations and how it will be incorporated on an international scale, as well as the consequences it will pose for every state and territory. The lack of an effective international system has been



challenging treaty negotiations and disputes between nations for the past century. Nevertheless, as sovereignty is unofficially becoming the standard practice of many nations, such as the Spanish Kingdom and the Dutch Republic. Now is the time to create and implement a system that will last for longer than any previous system.⁴⁶

Europe 1648

(Source: <http://searchofwisdom.com/treaty-of-westphalia/>)

History of International Law in Europe

The history of international law in Europe is long and complex. This committee, however, will mostly be focusing on the history from the sixteenth century into the seventeenth as it relates to the formation of a treaty that encompasses international law and sovereignty. For many years, there was no formal document or obligation in regards to international law, actions by states and countries were made based on tradition and courtesy, with the objective of accomplishing the desires of its ruler.⁴⁷ The control of the Pope and Holy Roman Emperor has long been the method of rule throughout Europe.

⁴⁵ Hinsley, F.H. 1967. "THE CONCEPT OF SOVEREIGNTY AND THE RELATIONS BETWEEN STATES". *Journal of International Affairs* 21 (2): 243.

⁴⁶ Lesaffer, Randall. *Peace Treaties and International Law in European History: From the Late Middle Ages to World War One*. Cambridge: Cambridge University Press, 2004.

⁴⁷ *Ibid.*, 14.



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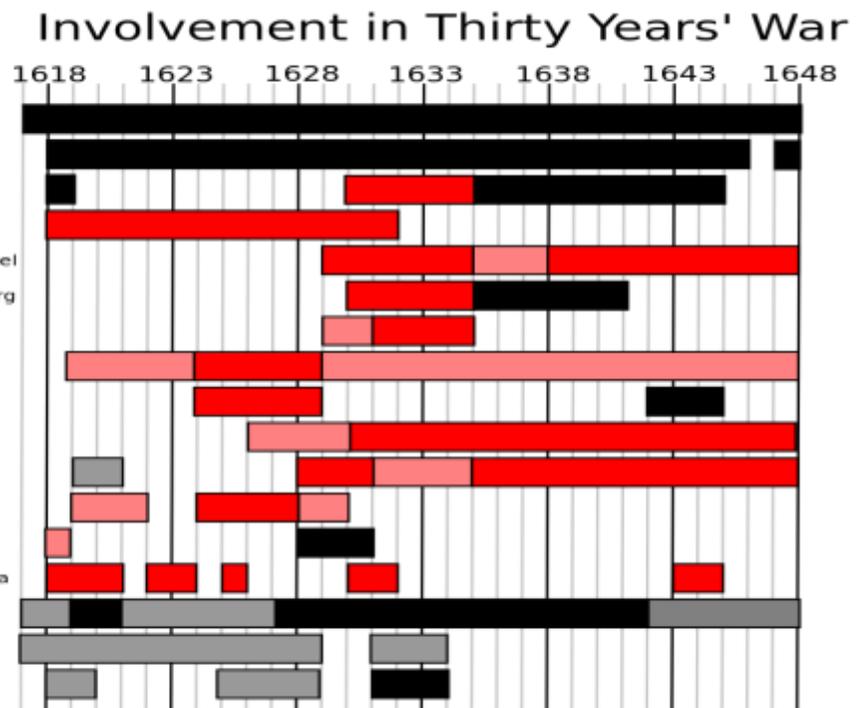
However, as conflict persists between the different faiths the world, it has to come to a point where Catholicism is no longer the reigning power.⁴⁸ An example of the loss of Catholic power the existence of a religious settlement in 1555 that enabled the princes as well as any free cities to determine if their lands were Catholic or if they were Protestant.⁴⁹ The ability for rulers to determine their regions religious affiliation and have a sense of self determination was truly the beginning of external sovereignty beginning to take hold.

As time went on, individual states and nations began to experience an increasing amount of power. Consequently, there were an increasing number of international conflicts. Intervention from other states as well as the Catholic Church was a major source of conflict in the past few centuries. Nevertheless, as the power of Catholicism decreased, there were fewer interventions from the Church and rather, certain allies were actually working together.

The early seventeenth century saw a dualist system of government that was essentially a shared power between the princes or rulers, and the estates, owned by nobles.⁵⁰ Over the years, the balance of power tilted into the estates favour which were largely Protestant, demonstrating another shift in the international system as Catholicism loses dominance.⁵¹

Treaty law also changed over the centuries. For years, treaties between regions were signed by the rulers in their own name

rather than in the name of their country or territory.⁵² This meant that the only individuals that could be held to the treaty would be the ones who had signed it, thus it was up to rulers to enforce the conditions of the treaty on their own citizens.⁵³ This system shifted



(Source: www.awesomestories.com)

⁴⁸ Osiander, Andreas. 2001. "Sovereignty, International Relations, And The Westphalian Myth". *International Organization* 55 (2): 251-287. doi:10.1162/00208180151140577.

⁴⁹ Osiander, "Sovereignty, International Relations", 255.

⁵⁰ Ibid, 253.

⁵¹ Ibid, 254.

⁵² Lesaffer, "Peace Treaties and International Law", 17.



towards one where the rulers were becoming representatives of their countries and states rather than being strictly the ruler who everyone bowed down to. It changed so that the ruler was now supposed to respond to the estate owners and to the people.⁵⁴

The changes in international law over the centuries is critical in the understanding and acknowledging the writing of peace treaties as it has the opportunity to be a political and international system that will last for years to come. Implementing a system that downplays the role of a ruler and increases power for the estate owners and/or citizens of a country is one way to approach the issue at hand.

Sovereignty

Sovereignty is evidently one of the biggest political ideologies that has developed throughout the centuries preceding The Peace of Westphalia. It is widely recognized as the current international system that allows rulers to be self-determining and does not allow the intervention from outside states⁵⁵. However, it is also argued that The Peace of Westphalia was not truly a turning point. Instead, it was simply a document making something that had previously been an unwritten rule, a formal and official piece of international law.⁵⁶ Sovereignty was a concept that had been followed on an internal scale for centuries. However, it was a challenge for many in the European continent to accept sovereignty on an international scale as it demonstrated a shift in power from the Holy Roman Empire and Catholic Church to nation states themselves, controlling their own politics, religion, and futures.⁵⁷

The implementation of a sovereignty based international system completely changed the international world order. It provided countries and states with the ability to be independent and allowed them to move forward with their own goals, without the interference of outside bodies. However, in order to have a sovereignty based system each power must agree to recognize itself and others as sovereign. It is a completely voluntary system, as Lesaffer, a renowned scholar on the topic put it, “sovereign rulers or powers are only subject to rules they accept themselves.”⁵⁸ Clearly there are limitations to this system and this is where delegates are able to use their knowledge to create a peace treaty that incorporates measures that will make a sovereign system better and easier to enforce as well as to be followed.

Moving Forward

As this is a historical committee, delegates have the knowledge of how the original peace treaties turned out and their effects on the international system. However,

⁵³ Ibid

⁵⁴ Ibid

⁵⁵ Shine, Cormac. 2016. "Treaties and Turning Points: The Thirty Years' War | History Today". Historytoday.Com. <http://www.historytoday.com/cormac-shine/treaties-and-turning-points-thirty-years-war>.

⁵⁶ ibid

⁵⁷ Oslander, “Sovereignty, International Relations”, 254.

⁵⁸ Lesaffer, “Peace Treaties and International Law”, 14.



The Peace of Westphalia

many historians argue that the Peace of Westphalia is a symbolic turning point, a formal document that simply reiterates what princely states and other nations have been doing



Ratification of the Peace of Münster

(Source: <http://www.historytoday.com/richard-cavendish/treaty-westphalia>)

for years.⁵⁹ This is an opportunity to rewrite the treaties to either put more of an emphasis on sovereignty or less. There are many reasons that an international system based on sovereignty would be desired as there are also reasons why it would not. However, Europe cannot go on without a formal system of international law.

The times have changed from the Papal authority having the final say in Europe, however that leaves many who want there to be some form of a direct power over the European nations disappointed.⁶⁰ This provides another avenue that can be explored throughout the negotiations: the creation of an international governing body or perhaps the restoration of the Papal authority. Although Europe has changed, if delegates work together to achieve a goal they can achieve it. There are many options for the treaties thus it is important to remember that sovereignty is the leading method of international relations and should only be challenged with a clear plan and wide support. Many of the states in Europe have been fighting the religious motivations for war and conflicts with other states which is why sovereignty is the favoured outcome of the negotiations.⁶¹

⁵⁹ Shine, Cormac. 2016. "Treaties and Turning Points: The Thirty Years' War | History Today". Historytoday.Com. <http://www.historytoday.com/cormac-shine/treaties-and-turning-points-thirty-years-war>.

⁶⁰ Hinsley, "The Concept of Sovereignty", 246

⁶¹ "Everything Peace Of Westphalia". 2017. Peaceofwestphalia.Org. <http://peaceofwestphalia.org/>.



The Peace of Westphalia

It will be up to the different states present in the Peace of Westphalia to come to a decision about what will be done with European law. There are many factors to consider from religious involvement to enforcement of said law. What will happen to Europe if nothing is done? How are the new types of nations and states supposed to work when the power is being spread from rulers to the people? Will a system based on sovereignty save Europe and reduce international conflicts or will it increase them? International law is ready to become something effective and used by nations all over Europe but it can only succeed if the delegations work together and come to a harmonious treaty that will benefit the people of Europe as well as its rulers.

Questions to Consider

- What are the benefits of an official international law? What are the downsides?
- How can an international system be implemented if not all members of the international community are included?
- How does the Pope play into a legal system where he is not the direct authority? Should there be a direct authority?
- What are the benefits to a sovereign system? What are the downsides?
- Why does the system need to change and what is it changing from?
- What about the treaty can be improved upon?



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