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### Recommended Citation

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## **Hierarchy or Heterarchy? Actors of Medieval International Society at the Council of Constance and the Peace of Augsburg**

### **Comments**

This paper was originally presented at the World International Studies Committee (WISC) Conference, held in Ljubljana, Slovenia in July 2008.

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**Hierarchy or Heterarchy?**  
**Actors of Medieval International Society**  
**at the Council of Constance and the Peace of Augsburg**

World International Studies Committee Conference, 2008  
Ljbljana, Slovenia

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University of Denver/Universität Tübingen, 2008

## **Introduction**

IR research on medieval international society has been mixed. On the one hand, interest in “neo-medievalism” has led to some discussion of international relations of the medieval era. Hedley Bull first used the term to refer to a simultaneous trend towards cosmopolitanism as well as fragmentation (Bull 1977), so it is in this sense in which scholars like Ruggie (1983, for example) have used the term. However, much of this research has merely touched upon *ideas* of medieval international society, and not upon medieval international society itself and what it has to offer contemporary debates.<sup>1</sup>

Buzan and Little (2000) have argued against the systematic inclusion of the medieval era in broader historical accounts of the international system. This is because they believe that the medieval era was a European occurrence and, as such, was a largely “local concern” (393). Their point is well taken if one is interested in establishing a more encompassing account of the international system. However, given the European character of both the concept of international society, as well as the interest in “neo-medievalism” particularly in Europe,<sup>2</sup> I argue that it is worth considering the broader effects on medieval international society.

Yet there are many scholars who would question the value of doing yet more work on European history, a topic well covered by historians. Indeed, one of the reasons why Buzan and Little call the medieval era a local occurrence is that to assume it has greater significance borders on Eurocentrism. Eurocentrism –or more broadly, Western-centric--research is a problem in IR (and in many fields). But the problem has a more complex answer than just conducting more research on non-Western international relations. Eurocentrism perpetuates not just a geographical fixation on Europe, but also a range of conventional accounts about Europe. The “Westphalian myth,” which is frequently referred to by IR scholars, indicates one such account: it is a story about the legitimacy of the territorially-bounded nation-state which possesses uncontested, absolute sovereignty. And such

conventional accounts are sometimes no more helpful for Europe than they are for anyone else.

With this in mind, I argue that there are good reasons to begin accounts of modern IR with the medieval era precisely *because* it was a local occurrence. It was crucial to defining what was “European”; further, its version of what universality consisted of had later far-reaching effects upon international society. In Buzan and Little’s study, they include a category of pre-international systems; while their interest is in international systems, they include the pre-international category because these systems persisted well into the time during which international systems began developing, thus they continued to have effects (388). Like Buzan and Little’s pre-international systems, medieval international society continued, and I would add continues, to have lasting effects on contemporary institutions.

Keeping in mind the lasting effects of medieval international society, and motivated by the limitations of conventional accounts about Europe, this chapter focuses on the contributions of medieval international society to contemporary debates regarding institutional forms and legitimacy. Here, I will be particularly concerned with the types of units within medieval international society, and how they are embedded in the structure of society.

Historians of the medieval era typically refer to three broad social structures, the Church, the universities and “secular” structures (the cities, the princes and the Holy Roman Empire), into which the major actors of the era belong. Adda Bozeman simplifies this typology to the papacy, the university and the Empire, calling them the three great European powers. She argues that they each contributed different ideational resources, while simultaneously claiming a universal constituency—and many times the same one (Bozeman 1994, 434). It should be noted, however, that just because these structures claimed they were universal did not mean they were equal. On the contrary, in most cases, only one could exercise authority at a time—but who would exercise authority was always a question.

Bozeman gives us a good starting point, especially by drawing our attention the overlapping “universes” of the major actors of medieval international society. In using the term “universes” this way, I refer to Donnelly’s recent deployment of the term in his discussion of the relative universality of human rights; he argues that we can distinguish between “ontological” and “functional” universality.<sup>3</sup> Ontological claims argue that universality is based on “objectively” held values which

define the terms of the debate, while functional universality is the pragmatic expression of, and reasoning for, shared norms. Functional universality is based on “overlapping consensus,” which in this way provides multiple grounds for the shared norms in question (Donnelly 2007, 293).

Donnelly also adds that functional universalities may be seen as “imperfect reflections of a deeper ontological universality” (293). He would most likely argue that, for this reason, the more interesting question is about the nature of the overlapping consensus of functional universality; I concur that this is an important question, but there is another interesting point about ontological universality which we should consider. In his discussion, he assumes irreconcilable differences regarding the nature of ontological universality. This is because he is discussing contemporary human rights, in which consensus regarding ontological universality cannot be expected. Some societies may believe that the justification for human rights lies in something “God-given,” while others will necessarily argue against this. But at least in the case of medieval international society, the story is a little bit different: among actors of medieval international society, there was ontological universality, in the sense that society believed it existed because of a divine plan.<sup>4</sup> What was *not* universal, however, was a consensus about the form in which that ontological universality should be expressed. This lack of consensus then may be described as a limited and overlapping consensus. Another way of describing the difference between medieval international society and contemporary human rights (besides the obvious empirical differences) is the following: in the latter case we must ask what underlies the overlapping consensus (what is the groundwork for an overlapping consensus regarding human rights)? But in the former case there are distinct underlying principles, while there was considerable controversy regarding how to express them.

This paper will focus on the nature of overlapping consensus within medieval international society, in particular the question: how did the differing actors of medieval international society, drawing on similar notions of ontological universality, have an overlapping consensus regarding institutional practices at the time? And further, what were the limits of this consensus? It should be noted that I do not discuss the character of “ontological universality” here, since the subject of the previous chapter was the contested nature of principles and practices of medieval international society. Here, that ontological universality stands as a backdrop to a central discussion of overlapping consensus instead.

Medieval international society consisted of a diversity of functionally differentiated actors which were largely unequal. Within modern international relations, realist scholars argue that the equality of actors is a consequence of their similarity, and equal actors are designated with equivalent rights and obligations in international society. On one hand, within medieval international society, the logical opposite of the previous statement about modern IR follows: functionally differentiated actors are not equals. However, actors of medieval international society often called upon the same foundations to justify their authority. Therefore, if these actors were unequal, this was both an empirical question and we only know this to be the case retrospectively – because one actor prevailed over the other. In other words, while some actors were clearly subordinate to others in medieval international society, others were not so clearly defined. Actors had to struggle –in generally agreed upon ways—to determine who would be the authority in a given situation.

In practice, anarchy and hierarchy were both important in medieval international society.<sup>5</sup> This is because several different hierarchies were in operation, and there was no clear overarching authority over all of them. The hierarchy which existed in the Holy Roman Empire did not translate into the terms of the Church's hierarchy. Similarly, the hierarchies of cities and principalities were not subsumed under the Church or the Empire. The same can be said of the universities. Yet, when cities related to one another they were closer to equals, just as clergy could relate to one another as more or less equals. However, these kinds of relations were infrequent – more often than not, different kinds of actors had to find ways to relate to one another, and to answer the question which always arose – whose authority would predominate (meaning, which hierarchy would prevail)?

In the following discussion, I focus on two peace settlements, the Council of Constance and the Peace of Augsburg as sources for the consideration of actors of medieval international society. It is my aim here to discuss the actors as a means of getting at the institutions of international society. To move towards identifying institutions, I suggest a couple of analytical methods here: first, I seek to make sense of both the competing “universes” of medieval international society, as well as the various ordering principles at work in those universes, both anarchy and hierarchy and autarchy and heterarchy. I use Bozeman's three structures as a starting point for getting at actors of international society. Nonetheless, the challenge is that each of these “structures” is arguably an institution, and I have said that my goal here is to limit the discussion to actors before institutions.

I limit the discussion in two ways. First, Daniell Philpott's focus on membership within international society is useful. He asks three questions, in essence: who are the actors?; How do they get to be members?; And what are their rights, privileges and perhaps obligations in international society? (Philpott 2001). Depending on how one looks at these questions, one can either focus on the units of international society or the rules shared between them. The first question asks us to consider how much the members of the society contribute to the constitution of the society. The second question, "How do they get to be members?" asks about the shared processes among units which are deemed legitimate participation. Finally, the third question asks how rights and obligations are associated with members. Do different sorts of members have different privileges?

Second, I then discuss each of the "universes" as sectors of international society (Buzan and Little 2000), and then discuss how each of these sectors operated according to different rules; because sectors of analysis identify relations in a given issue area (B and L, 72), this allows me to focus on the sets of actors associated with the Church, the Empire and universities. But simultaneously, these sectors also overlapped; thus, after the section on sectors, I consider ordering principles explicitly. I discuss the coexisting and (perhaps) competing elements of anarchy, hierarchy, autarchy and heterarchy in medieval international society.

### **The Council of Constance**

The Council of Constance's main objective was to end the Great Schism of 1378, otherwise known as the Great Western Schism. Historians distinguish between two major schisms: a western one and an eastern one. The latter took place over a period of several centuries, with the controversy centering on (in very simplified terms) where the Holy See should be located. According to the conventional wisdom, the major consequence of the Great Eastern Schism was the split between the Catholic and Orthodox Churches.<sup>6</sup> However, the former, which the Council of Constance aimed to resolve, took place in Europe in the fourteenth and fifteenth centuries. The source of the Great Western Schism was the presence of at first two, and then three, claimants to the papacy (539).

However, the *Catholic Encyclopedia* argues that the Great Western Schism was "not a schism properly so called, being in reality a deplorable misunderstanding concerning a question of fact" (Forget, 540). As the same article in *The Catholic Encyclopedia* suggests, a schism is the complete "rupture of ecclesiastical unity" such that the Church exists in state of disassociation from its body,



the “mystical body of Christ” (529). To suggest that the Great Western Schism was not a schism, as some church historians do, is to focus on the ultimate outcome of the Council of Constance, the reinstatement of the papacy, as an outcome that was somehow inevitable. Historical evidence tells us that that this outcome was not clear, however.

Further, considering the Council of Constance with international politics in mind allows an analyst to understand how the Council contributed new models of political organization. I argue that in the long run, the Council made significant contributions to medieval international society, which it could not have done if had been nothing more than a minor misunderstanding about church politics.

Historians of the Council of Constance usually divide their accounts based on the items on the Council’s agenda: the resolution of the Great Western Schism, the reform of the Curia Romana (the administrative arm of the Church), including both the taxation system and the organization of offices, and addressing the increasing problems of heresy. In keeping with this consensus, I will first discuss the resolution of the Schism, and then address the questions of reform and heresy.

### The Resolution of the Schism

Attempts were made to resolve the Schism at an earlier church council, held just five years before the Council of Constance. I therefore begin my account with this earlier council, the Council of Pisa (1409). In many ways, Pisa had similarities to Constance, in both its organization and its objectives. Further, and I will return to this idea later, some representatives at the early sessions of the Council of Constance wanted their meetings to be considered a continuation of the Council of Pisa, rather than an entirely new council.

In 1380, officials at the University of Paris suggested to the French king that the only way out of the schism would be a general council. But the matter was controversial. There was continuous discussion among theologians, lawyers and royal councilors about the rights and duties of the actors involved in ending the schism. They asked questions such as, what were the rights and duties of subjects to take control when rulers were incapable or unwilling?; what were the rights/duties of bishops vis-à-vis the pope?; what were the rights and duties of the learned as experts on the law?; what were the rights and duties of the clergy vs. the laity? (Hughes 1960, 230). Discussion of this nature, between many different types of actors, was not unusual. Bozeman

describes fifteenth century Europe as “a composite of secular and ecclesiastical interests, territorial and extra-territorial associations, and national and international powers” (Bozeman, 500).

However, before the Council of Pisa, it was not the general practice of the *congregatio fidelium* (loosely translated, “congress of the faithful,” the term used to describe the Church universal) to use general councils in the absence of the pope’s authority. This, however, was precisely the challenge: with several claimants to the papacy, how was ecclesiastical life to be reformed? But more urgently, how was the Christian community to decide which pope was the legitimate pope? Indeed, did the Christian community—or the *congregatio fidelium*—have the authority to make such a decision? Conversely, in the absence of the papacy, where else could authority for the maintenance and constitution of ecclesiastical life derive from, if not from a general council?

In 1408, the rival colleges of cardinals deserted their popes and came together in order to issue a joint summons to meet in Pisa in March 1409.<sup>7</sup> This fact, that the cardinals and not the pope called the council, was the first reason that Pisa was unique as a council. The second reason was how it operated. For the first time, a diversity of secular actors (e.g. representatives from universities, princes’ ambassadors) and not only bishops, could vote. In Hughes’s words, “The General Council had indeed a new look. It greatly resembled a parliament” (Hughes, 231).<sup>8</sup> At Pisa, the Council deposed the two rival popes and elected a new pope, John XXIII,<sup>9</sup> with the hope that he would be recognized as legitimate. The Council also issued a decree that bound John XXIII to call another council in 1412 (Hughes, 231). The delegation at Pisa hoped that, as its sessions drew to a close, that the Schism would be resolved. In requiring John XXIII to call another council in 1412, they sought to reinforce the new pope’s authority. However, it became increasingly clear that the Curia Romana (the church hierarchy) was not prepared to accept the new pope as legitimate.

As required by the decree, John XXIII did call this council in 1412, but almost no one came and he quickly disbanded the council. It was becoming clear to Christendom that the pope was not the reformer that they had understood him to be at his election at Pisa; thus, with his reputation in decline, he fled to Florence. It was only with Emperor Sigismund’s advice that he then called for another council in 1413, the Council of Constance (Hughes, 232). The need for another council was increasing because John XXIII’s authority was not being recognized as legitimate. The rival popes remained in the background and the Christian community remained dissatisfied with the papacy’s

taxation system. Further, the Curia Romana was engaged in increasing controversy surrounding questions of heresy (Shahan 1908, 288-294). The Council of Constance was therefore again faced with a decision regarding what to do about the rival popes. This problem, combined with significant dissatisfaction with the Curia Romana, meant that the papacy itself came into question.

However, before the Council could do anything, it had to address two challenges: first, how would the Council be defined? The controversy centered upon whether Constance would be considered a continuation of the Council of Pisa, or whether it would be a new council. In the former scenario, John XXIII would have been considered the legitimate authority, and the council would have been able to address the more procedural matters of heresy and taxation. Yet, the representatives of the council lacked the consensus necessary to proceed in this continuous fashion (Schroeder 1937, 444). Instead, the Council of Constance became a new council, with its first task to depose the rival popes and elect a legitimate one before it could address the issues of heresy and taxation.

Following questions of definition, the representatives at the Council addressed questions of organization. Similar to Pisa, at Constance there were numerous secular representatives (Schroeder, 443-444);<sup>10</sup> though in addition, Constance was organized by nations as the University of Paris was organized. The nations were first the Italians, French and Germans; later the English and the Spanish joined. Each nation would have one vote, and they would decide how to vote in national preliminary meetings. All the various types of actors (bishops, abbots, proctors of absentee prelates, lawyers, university representatives, doctors of theology, etc.) would have a say in these preliminary meetings (Hughes, 232; Shahan, 288). Changing the rules of participation of the general council such that nations could vote was significant enough, but even more significantly, the general council took away the cardinals' separate vote. After May 1415, only the nations could vote (Shahan, 288).

These first two challenges, regarding the definition and structure of the Council, affected when and if the members of the Council could address the resolution of the Schism and the reform agenda. In the first four sessions of the delegates' decision to start a new council rather than continuing the Council of Pisa had implications for the council's agenda because starting a new council, particularly one called by the emperor and not the pope, signaled recognition of the Schism. Had they simply added sessions onto to the Council of Pisa, they could have – at least in

theory—proceeded with reform much sooner.

The Italian majority, in particular, clung to the idea of continuing Pisa. But with the introduction of voting rights for the nations, the power of the Italian delegation was undermined. The introduction of voting rights for non-religious representatives therefore had an effect on both the definition and structure of the Council: the Council would be a new Council, whose voting members consisted of a variety of actors. This, in turn, meant that the Council would seek to address far more than small reforms.

This point is illustrated by the nations' first decision within the Council: because the nations argued for papal resignations, after the Italian majority was undermined, the rival popes had little choice but to resign (Schroeder, 444). This decision not only reinforced the nations' importance within the Council, but it also reminded the *congregatio fidelium* that the Council was by default, in the absence of the papacy, the supreme authority (Hughes, 233). As the vacancy of the Holy See ensued, the Council made this default position formal; it declared its supremacy over the papacy with the *Sacrosancta* decree (Schroeder, 445-446).

*Sacrosancta* was necessary so that the Council could, at the very least, make the decisions necessary to repair the papacy so that ecclesiastical life could be maintained. By issuing this decree, it ensured that the Council would continue to have a say in the resolution of the Schism and then the reform agenda that would follow. In the first instance, this meant having a say in the appointment of a new pope. After the deposition of the rival popes, the Council then decided that there should be a commission to determine how the pope should be elected, and that in these exceptional circumstances—that is, with the pressing need to end the Great Schism—the nations would, just this once, have a say in electing the new pope (Hughes, 237).

However, the matter regarding the election of a new pope was highly controversial. There were significant differences between the nations: the Spanish, French and Italians wanted an immediate election, arguing that the lack of papal authority was a source of anarchy within the community, while the English and Germans believed that reforms would be forgotten if a new pope was elected immediately. Eventually, the nations came to a compromise position, calling for an immediate election of a new pope, but specifying that the new pope must *immediately* take up the reform issues identified by the Council (Schroeder, 447).

To ensure that this would occur, the Council issued the decree *Frequens*, the practical corollary to *Sacrosancta*. *Frequens* made general councils required; the pope would be bound to call another council 5 years and 7 years after Constance, after which he would be required to call for a council at least every 10 years. In this way, because a council would either always be happening or always be in mind, there was an increased likelihood of keeping reform issues prominent (Hughes, 236). However, the Council did make compromises; with *Frequens*, the council agreed to be concerned only with reforms that were needed for the whole church; any other concerns would be dealt with separately between the pope and the nations (Hughes, 236; Jedin 1960, 122; Schroeder, 443-445).<sup>11</sup> The council was again subject to the authority of the papacy.

After the election of the new pope, Martin V, the Council was recognized as “ecumenical,” meaning that the Curia Romana recognized it as universally legitimate, and therefore its decisions were binding upon the entirety of the *res publica Christiana* (Jedin, 3, 12-13). It was only after this that the Council began to address the reform agenda and the resolution of heresy, so it is here that I will shift to a discussion of this agenda.

### The Reform Agenda and the Resolution of Heresy

After the election of the new pope, the Council was able to pick up the questions associated with the reform of ecclesiastical life. There were three issues on the reform agenda. First was the general dissatisfaction with the papacy’s interference in the appointment of church offices, and second was the centralized taxation system that the papacy had been using to fund the administration of the Church (Loomis 1961, 29). Finally, the Church agreed to address the problems of heresy as well, which they believed were threatening the basic fabric of the *congregatio fidelium*. Although it is not standard to discuss how the Council addressed heresy as part of the broader reform agenda, here I do so because the issues raised by the reform agenda and by the main heretic tried at the Council, John Hus, were closely related. In one way, Hus was not unusual for his objections, given that taxation of local churches for papal activities had long been unpopular (Tierney 1964, 160). By trying John Hus, the now ecumenical council was able to justify its minor policy reforms.

Outcomes from the Council’s reform agenda were not particularly substantial. Included

among them were changes to the rules regarding the appointment of Church officeholders and regarding benefices and tithes for the same officeholders. Some historians have argued that the reason the Council of Constance failed to address items on the reform agenda was because of conflicts between the nations (Loomis, 12). The discussion in the previous section, regarding the conflict between the nations which prevented them from getting to the reform agenda before the pope was elected, provides some evidence for this view. Discussions regarding the election of the now pope and reform were interwoven with one another; for example, some of the nations wanted to address reform earlier in the Council's sessions because they were afraid that after the pope was elected, he would take the Council's suggestions less seriously.

In a way, this is what happened. Beside the minor reform outcomes mentioned above which applied to the entirety of the community, the other notable outcome was the set of concordats agreed between the Curia Romana and the nations. Concordats were specific agreements between the papacy and local churches (they could not yet be considered "national" churches) which included rules for the appointment of local church offices as well as taking away church officials' privileges to only be tried in ecclesiastical courts (Jedin, 122).<sup>12</sup> Arguably, the fact that many of the reforms were handled locally did contribute to disrupting some of the Council's consensus (what was left of it by the time Martin V was elected).

After addressing the issues of taxation and benefices, the Council of Constance addressed heresy in two ways. First, they sentenced to death John Hus, a leader of the Czech Reform movement; second, they had Wyclif's writings destroyed and his remains burned. The latter followed the former, and was related, since Hus was a follower of Wyclif, and in the fourteenth and fifteenth centuries anyone believed to be a follower of Wyclif risked excommunication at best, and trial by death at worst.

Hus argued for an expanded role for the laity in the day-to-day life of the Church. He focused particularly on the role of God's grace, the importance of apostolic emulation and the central place of scriptural teachings. For Hus, practical examples of these emphases included lay people preaching and receiving Communion in addition to clergy, and considering critically whether church officeholders were living up to their positions (so, for example cardinals were not necessarily heirs to Christ's apostles simply because of their positions; they had to earn that status and maintain it

through an apostolic life) .

These views made Hus threatening to the Curia Romana because he was challenging the idea that their positions in the Church hierarchy were uncontested. For example, one of Hus's opponents at the Council distinguished between the Catholic and Apostolic Churches, with the Catholic Church being "the Greeks, Latins and barbarians who believe in Christ," and which can never err because it is where salvation is found; the Apostolic Church, on the other hand, was "a particular Church and, as such, is included in the Church Catholic. It comprises the pope, the cardinals, the bishops and the lay members. It is commonly called the Roman Church" (Spinka 1965, 20-21). Thus, holders of church offices argued that they held these positions because of apostolic succession. While on the one hand this argument meant that the Apostolic Church was a particular church, it also meant that it was the *only* acceptable particular expression of the broader Catholic Church.

But Hus was suggesting a different interpretation of the Apostolic Church, one which included the entire community of the faithful. According to his view then, the Apostolic and Catholic Churches should not and could not be separated. Hus's reasoning for this conclusion came from philosophical realism, the same tradition which Wyclif was a part of. Philosophical realists argued for the separation of the universal and the particular, which made room for the particular to be contingent upon different historical circumstances. For the more traditional members of the Council who wanted to see the papacy restored, this was problematic because if one made the particular primary, this could threaten the universal foundations of the society. One scholar explains the implications of this view in the following manner:

The real thing in man must ... be the humanity which is shared alike by Socrates, by Plato, and by every other individual man: individuality thus belongs merely to the phenomenal world, to the seeming and the transitory. What, then, ... becomes of the immortality of the soul? One step more and the personality of God disappears with the personality of man (Rashdall 1895, 45-46).

The irony is that Hus used his philosophical realism to arrive at an orthodox position. He was not arguing for increased secular power, which was ultimately one of the results of the Council of Constance, but rather he was arguing for a revitalized Church universal—one that would take the Curia Romana back to its foundations (or so he believed) of Scriptural teachings. In essence then, although he was charged for specific offenses at the Council of Constance, what I am suggesting is that Hus was considered heretical because of his methodology for his arguments, less than his actual

theological positions (Rashdall, 55, 57).<sup>13</sup>

However, we still need to know what Hus's specific offenses were. There were four main ones: 1) his Wyclifism was public knowledge because he taught Wyclif's thought; 2) members of the Council accused Hus of opposing the orthodox doctrine of transubstantiation; 3) he publicly refused to show papal obedience when he accepted the position of rector at the University of Prague, a position granted to him by the Czech king who had decided to support the Council of Pisa; 4) finally, he criticized two papal bulls on indulgences.

Hus's teachings were first challenged while he was the dean of the faculty of arts and simultaneously pursuing his doctorate of theology. It was during this time that he publicly began teaching and defending Wyclif's positions in his lectures. Hus was not alone in teaching Wyclif's thought, particularly among some of the other Czech masters, who were gradually starting to be called the Czech reform movement. However, teaching Wyclif's thought came with risks; while Hus was teaching, there was a commission regarding a German master's Wyclifism. As a result of the commission, church officials took a harder line on the doctrine of transubstantiation in the following manner: after the words of consecration, nothing remains in the sacrament except the body and blood of Christ; the commission even forbade the use of the word bread. Hus criticized this outcome, arguing the orthodox view of transubstantiation instead. This position was later held against him at Constance; members of the Council claimed he was preaching remanence .

Here, the Council's problem with Hus again went back to his philosophical realism. Again, Hus was splitting the particular and the universal—this time in the sacrament of the Eucharist.

“Remanence”—also referred to sometimes as “consubstantiation”—meant that while the bread and wine transformed, they also simultaneously remained bread and wine. In other words, their material properties remained but were nothing more than temporal accidents (Rubin 1991, 326). Another way to draw this distinction is the following: the orthodox position argued that transubstantiation demonstrated the *real* presence of Christ in the Eucharist. Hus did not take issue with the *real* presence of Christ, but rather added that the bread and wine were still bread and wine, in addition to the spiritual qualities they took on. But for members of the Council, Hus's position emphasized the accidentence of the bread and the wine too much – so much so that using the word “bread” was problematic.



Hus also disagreed regarding papal obedience. When the Council of Pisa was called, at the urging of the French king and the University of Paris, the French sent a delegation to obtain support from the Czech king, who agreed to support the Council. However, the German university masters remained faithful to Gregory XII. As punishment, the king reorganized the University of Prague so that the Czech nation would have more votes and the foreign nations more (a reversal of the previous organization). He then made Hus the first rector of the reorganized university. Hus was therefore in a highly public position that revealed his support of the conciliar movement. In response, the German masters signed an oath saying they would not abide by the changes and fled to form the University of Leipzig . Later, members of the German nation at the Council of Constance were especially stringent regarding the charges of heresy held against Hus.

Finally, in 1412, he openly criticized two papal bulls on indulgences. John XXIII issued a bull condemning King Ladislas of Naples as a schismatic and a heretic, requiring his excommunication; further, the bull stated that all who supported the effort would be granted indulgences. In two different treatises, Hus criticized this act, particularly the selling of indulgences without the usual requirements of repentance; only God forgives sins, he argued . Thus, before the Council of Constance even began, Hus had charges of heresy stacked up against him.

Even if Hus was orthodox, and the motivation for trying him was based more on his philosophical realism, what is striking is that many of the practices associated with Hus's offenses again arose at the Peace of Augsburg. Admittedly, in one way this is not striking; with over a hundred years between the two congresses, there was ample time for these practices to make inroads in international society. However, what is striking is that the controversy at Augsburg centered around problems with the practices themselves, rather than the arguably more fundamental questions raised by Hus's trial at Constance. Specifically, questions about the role of the laity and indulgences were discussed at Augsburg—but notably, the issue of papal obedience, which was so critical at Constance, was not on the agenda.

### **The Peace of Augsburg**

Circumstances were quite different in 1555 at Augsburg. While at Constance, the *res publica Christiana* could be understood as “headless,” this was not the case at Augsburg. No one was specifically

challenging the existence of the papal office, though the congress itself challenged papal legitimacy simply because it occurred. Further, decisions taken at the congress contributed to chipping away more of papal authority, as well as the overall integrity of the *congregatio fidelium*. The Peace of Augsburg was called by the emperor, Charles V, since the pope would not call for a general council. Thus, it is also referred to as the Augsburg Diet, as it was a meeting of the Holy Roman Empire. Because the Peace of Augsburg was not an official church council, and the law of nations was not legitimated enough to provide a basis for its recognition, historians often consider the Peace to be a “German” occurrence.<sup>14</sup> This is problematic though, given that the Holy Roman Empire and the later German nation-state are not one and the same. Also, the Peace dealt with specifically Lutheran differences with the Church; therefore, to call the Peace “German” is to assume that “Lutheran” means “German”—which it did not necessarily. At the time of the Peace of Augsburg, the Holy Roman Empire had the potential to influence much of the *res publica Christiana*. Historical evidence tells us that it did in fact do so, as some of the later local changes in response to the need to address issues of religious governance demonstrate.

All this is not to suggest that the Holy Roman Empire and the outcomes of the Peace of Augsburg were not limited. They were. The fact that the Peace was a Diet and not a Church council contributed to this; also, the fact that the Peace was specifically “Lutheran” contributed to this. But these limits were precisely what contributed to changes in institutions at the time.

Additionally, understanding the Peace of Augsburg as particularly German overlooks the broader, European outcomes of the Peace. Rather, the Peace of Augsburg had significant “spillover effects.”

Like the Council of Constance, the Peace of Augsburg (1555) sought to reunify Christendom. The preface to the Peace called for a “permanent” religious peace. Although its outcomes were not permanent, this goal nevertheless pervaded negotiations.

The Peace took place in the middle of the period contemporary scholars now call the Reformation, so the Church’s internal cohesion – both the Curia Romana and the *congregatio fidelium* – was challenged. The Czech Reform movement had turned into a movement of “Hussites,” which the Curia Romana was consistently trying to undermine. Further, by the time of the Peace of Augsburg, Luther had already publicly declared his differences with the Church

hierarchy.

These growing divisions within international society were placing the pope under increasing pressure to call a general council to address the sources of controversy. However, the pope wanted to avoid discussion of religious divisions within Christendom, not least because calling a council would demonstrate that he was incapable of exercising his authority to solve the crisis (Spitz, 1956). The Peace of Augsburg was therefore partially a response to the absence of a general council. Initially, Charles V did not want to call for the Diet of the Holy Roman Empire to convene regarding these matters, since such an action would undermine the pope's authority. Yet, he ultimately decided that some kind of response was required, and called for the Diet in order to reunify Christendom. Before proceeding, he gave the pope the opportunity to support his decision. The pope did not take the opportunity.

But the Peace of Augsburg could not happen immediately. Before the Diet could meet and draft policies to address the problems associated with religious differences, they had to establish clearly what those differences were. Thus, in 1530, the emperor called for the Augsburg Confession (hereafter referred to as either "the Confession" or "CA," the acronym for its Latin name, "Confessio Augustana"). The Confession defined the major points of agreement and contention between Luther's followers and Catholicism, or the "old" and "new" believers, as they were frequently referred to.

It is essential to begin with the CA since the Peace that followed only applied to the parties to the Confession. The Confession was divided into two different parts: the first part sought to demonstrate the points of agreement between the "new" and "old" believers, while the second part outlined the areas of doctrinal controversy. This format was important because it shows how Luther and his followers<sup>15</sup> were indicating their endorsement of the emperor's goal to reunify Christendom; they sought first to show how their religious practices were not in conflict with the Church .

The points of agreement found in the first part of the CA followed similar lines to Luther's private confession in 1528. In brief terms, Luther argued against the notion of good works as a means to salvation. Rather, according to his confession, salvation could only be achieved through faith alone in Christ. Thus, according to Luther, good works are not what one does as a means to an end (e.g., salvation), but what one must do out of obedience to God . Luther also addressed the

practices of monasticism and indulgences in a similar manner: just as doing good works as a means to an end was problematic, Luther argued that a monastic life, if done for the wrong reasons was no guarantee of salvation; further, the idea of indulgences, which could be purchased upon completion of good works, was objectionable to him.

It is important to note that while the positions expressed in the first part of the CA, regarding good works and indulgences, were unpopular with the Church hierarchy, they were not radical departures towards a new faith, but rather a return to a traditional understanding of the Church. Like Hus before him, Luther was also quite orthodox in his positions. It is for this reason that Smith has argued that the CA had a “catholicizing tendency” because it attempted to show that “in the Lutheran doctrine [there was] ‘nothing repugnant to Scripture or to the Catholic church or to the Roman church’ (97).

The second part of the CA included the areas of doctrinal controversy. These are known as the “disputed articles,” and the most well known of these was CA 28, which outlined which elements of the medieval hierarchy would remain, and which would be modified. These were: 1) bishops would no longer require vows of celibacy; 2) evangelical doctrine would not be permitted at ordination; 3) the pope was required to give space for interpretation of the gospel. What this meant was that, absent of the pope’s authority (and correspondingly, canon and imperial law), questions of ecclesiastical jurisdiction went to others.

Ultimately, the entirety of the CA described the specific differences between the Catholic and Lutheran faiths. The doctrinal differences between Luther and other Reformation leaders, such as Zwingli and Calvin, were never addressed in the CA. Only once, at a preliminary meeting before the Confession actually began, did Landgrave Philip of Hesse call a meeting between Zwingli, Luther and their followers in order to establish points of agreement between the two groups. They drafted the Marburg Articles at this meeting, but these were largely excluded from the final documentation within the Confession (called the Schwabach Articles).<sup>16</sup> Nonetheless, some princes at the CA—for example, the Electors of Saxony and Brandenburg—rejected the Schwabach Articles because it was not in their interest to alienate the Swiss (Grane 1959, 15).

Because the Confession only applied to Lutherans, the Peace that followed also only applied to Lutherans. Yet, this was only a legal sense; the CA had some spillover effects. Lutheranism was

considered a *religio licita* (legal religion), a status which granted what became other strands of Protestantism greater normative authority, even if they were not formally recognized. For example, after the Peace of Augsburg the pope could no longer excommunicate people just because they were Protestant, a fact which Elizabeth I took advantage of. When she finally was excommunicated in 1570, it was not because she was Protestant, but because she was *specifically* Calvinist, and Calvinist ideas were beyond the conditions of the Peace .

Further, the central questions of the Peace of Augsburg—how to clearly delineate the terms of religious governance and how to describe the limits of imperial law—confirm the spillover effects of the CA. Grane refers to the “double-mindedness” of the CA, meaning that it had both theological and political objectives. At the CA, matters of theological controversy were worked out *because* these issues also brought up a legal conflict (Grane, 19). So at the Peace of Augsburg, those present at looked back on the terms of the CA to set limits and draft policies. Specifically, the official position at the Peace was that the terms of the Schwabach Articles must be adhered to; as long as they were, princes could be seen as acting under the auspices of imperial authority (Grane, 16, 17).

The Diet for the Peace of Augsburg was called for the 13<sup>th</sup> of November, 1554, but it did not commence until the 5<sup>th</sup> of February. It took this long for all the Estates to gather, although by Feb. 5<sup>th</sup>, only two ecclesiastical princes were present, the Cardinal Bishop of Augsburg and Bishop of Eichstadt . This long delay in beginning the negotiations was largely to do with differences regarding the objectives of the Peace.

Neither the Catholics nor the Protestants at the Peace voted as a bloc. Among both groups, there was a wide range of views regarding how the congress should proceed. In the case of the Catholics, although they generally agreed with the Emperor’s goal to restore unity to the *res publica Christiana*, with a few minor “concessions ... in the case of dire necessity,” there were some who clung firmly to the old notion of the Church as one unified faith community (Tüchle, 149; Spitz, 111-112).

Among the Protestants, views ranged from those who wanted religious issues formally removed from discussions at the Diet, to those believed princes should see it as an obligation to establish an evangelical, territorial church (Spitz, 113).

The Elector of Saxony, who was coming from a region which was primarily Protestant, argued that religious issues should be formally removed from the agenda because he thought that agreement on

the issues was next to impossible. According to his view, a lasting peace could only occur in the absence of discussion over religious issues. His position was not popular though; for example, the sovereign prince from Württemberg believed that all the Protestant princes should have united against the Catholic threat. It was he who suggested that it was the prince's responsibility to establish an evangelical church (Spitz, 112, 113).

In between was the Palatinate, coming from a region which was neither clearly more Catholic nor more Protestant, who allowed Protestantism to flourish without officially changing the religion of the area (Spitz, 112-113). While the Palatinate might have benefited from a Peace that removed religious issues from the agenda altogether, since it would have allowed for the practice of both faiths in the area without any relationship between the region and the faith, the agenda was not leaning this direction. Because the Protestants were greater in number at the Peace, priority was given to negotiating a settlement which would explicitly address religious questions.

One reason for this prioritization of a religious peace over a territorial peace (as historians describe it) may have been that, prior to the Diet, the Protestant princes<sup>17</sup> met at their own council at Naumberg to agree to a common policy. First they agreed that they would adhere to the terms of the CA in 1530. They made three specific demands to this end: 1) they wanted "security under Public Law of the Empire" for everyone who agreed with the CA, either presently or in the future; 2) liberty to hold any ecclesiastical property which might be secularized in the future; 3) toleration for Lutherans within Romanist states without corresponding toleration for Romanists in Lutheran states. While the Diet did not accept these terms exactly, the Protestants did manage to sideline the Catholics' preference for discussing a territorial peace and obtaining aid for the Turks instead (Spitz, 114).

The actual provisions within the Peace were somewhat different from the Protestants' demands. Not surprisingly, the Romanists would not agree to the Protestants' third demand. Instead, the policy of *cuius regio, eius religio* was articulated at the Peace, stating that the secular territorial ruler could choose between the Lutheran and Romanist faiths, and that decision would be binding upon his subjects. Both the Romanists and the Lutherans tried to use the principle to constrain the other group, the Romanists demanding that any ecclesiastical prince who changed his faith would lose his property and dignity, while the Lutherans wanted toleration for their faith in Romanist territories.<sup>18</sup>

Discussion at the Peace therefore focused upon issues of religious peace. There were several relevant questions: could spiritual peace ensue if the princes agreed to the peace as imperial estates –and in so doing, they would not be breaking their oath to the papacy? Would Protestants obtain spiritual jurisdiction and Church property (for this was what they needed to form a territorial church)? Should Protestantism be acknowledged, but contained such that it could not expand further? The final policies agreed upon at the Peace addressed these questions by stating that the prince would control the actual worship of a region, but no one would be forced to participate, and all subjects had the right to participate (Spitz, 117).

The final provisions of the Peace compromised upon the two groups' demands. These included the following:<sup>19</sup>

1. No estate of the Empire was to compel another to change its religion, or to make war on this account;
2. No ecclesiastical official could pronounce the Peace of Augsburg without losing his office;
3. Any official who had already pronounced the Peace of Augsburg could not lose his office or property he had held since before 1555;
4. Ecclesiastical jurisdiction was suspended in areas of the Augsburg Confession;
5. No imperial estate was allowed to protect the subjects of another imperial estate;
6. Every citizen had the right to practice either religion without losing rights, property or honor;
7. The peace would include free knights and free cities of the Empire.

Tüchle argues that the provisions within the Peace, listed above, can be understood as a set of questions about the rights of a multiplicity of actors to govern the Reformation (154). For example, kings thought that it was the possessor of supreme authority “who was competent to provide for church and parish,” but others thought that the right belonged to whoever “subjects owed both obedience and ground-rents,” even if they lacked supreme jurisdiction. These divergent views did result in administration by different actors despite common institutions (160-161).

### **Sectors of Analysis in Medieval International Society**

Sectors of analysis, as I mentioned previously, identify relations in a given issue area. When Buzan and Little introduce the analytical device of sectors in their work, *International Systems in World History*, they discuss several broad issue areas which may apply to a multiplicity of international systems:

military, political, economic, environmental and socio-cultural issue areas (Buzan and Little, 71). However, these are examples of sectors, in particular ones which serve the purpose of their study, to consider the broadest range of international systems across time. Here, because I am concerned with a specific place (Europe) and a much more limited time period (late medieval international society), I apply the concept of sectors, keeping in mind that the specific case of medieval international society requires focusing on different sectors.

What is the value of using sectors of analysis? Sectors, like levels, help identify specific processes which are otherwise obscured by looking at relations in a different manner. For example, if one discusses the “domestic” level, this may be too broad of a characterization if one is interested in the specific economic processes of a given domestic state. In this way, sectors are comparable to regimes, in that regimes consist of rules in a given issue area, such as international monetary relations. But unlike regimes, which focus on shared rules within a given issue area, sectors more broadly identify *relations* within issue areas. This opens up possibilities for discussing both rules and structures within sectors. As stated by Buzan and Little, “One way of understanding sectors ... is to see them as views of the whole system through an analytical lens which selects one particular type of relationship and highlights the types of unit, interaction and structure most closely associated with it” (Buzan and Little, 71).

But there is a caveat regarding sectors which is worth mentioning as well. Just as focusing on a given level of analysis can lead to the illusion that, for example the system level, is isolated and independent, so focusing on sectors can make it seem like issues are separate from one another.<sup>20</sup> As Buzan and Little write, “the activities of social actors operating in one sector may in practice be playing important roles in another sector” (Buzan and Little, 76). For this reason, once sectors of analysis are in place, it can be helpful to think of which relations across sectors are relevant (B and L, 75), asking questions such as: in which sectors do relations cut across other sectors? How do these relations which overlap between sectors give us a broader picture of the underlying ordering principles of the society? What do the sectors tell us about the structure of the international society?

These are empirical questions, so I treat them as such. Thus, with the case of medieval international society, I begin with what Bozeman called the “three great powers” of Europe—the university, the papacy and the Empire—and analyze them as sectors. One advantage of analyzing



them this way is that it allows me to consider sets of associated relationships within the most significant issue areas for the historical context. One may think of these sectors as capturing a knowledge-based issue area, a religious issue area and a political issue area.<sup>21</sup> In this section, I seek to capture the main groups of actors and relations within each of the sectors separately. However, after discussing each sector separately here, I will return to the three great powers approach, given that issues of knowledge and religion were also often political issues, in a final analytical section on ordering principles.

### The Empire

Whereas, in most [historical] empires, the emperor's position was strengthened by the fact that he was descended either from god or from his prophet, in Christendom he was neither one or the other (Van Creveld 1999, 59).

Who belonged to the empire, and how did the empire claim authority in medieval international society? According to the conventional wisdom of the time, the Emperor was the “secular” head of affairs, while the pope was the religious head of affairs. Marsilius of Padua cites this as the conventional wisdom in the following manner: “ ‘Behold, here are two swords,’ said the apostles, replying to Christ. ‘And he,’ that is, Christ, ‘said to them: It is enough.’ By these words, according to some men’s interpretation, it must be understood that there are in the present world two governments, one ecclesiastic or spiritual, the other temporal or secular” (Marsilius 1956, 110). Marsilius’s description draws attention to two important aspects of imperial authority. First, the secular and the religious, the spiritual and the temporal, are two separate realms which require two separate authorities. Second, the two realms draw their authority from the same source: two equivalent swords derived from apostolic succession.

At the same time, historical geography from the time period tells us that the Holy Roman Empire was a specific area within Europe, a fact which emphasizes the more limited role of the Empire (see maps at the end). The Peace of Augsburg, as a meeting of the Empire, was less clearly pan-European compared to Constance. However, it is also important to note how difficult it is to locate the Holy Roman Empire. Unlike modern nation-states, its specific domain was not fixed, but rather in Christian Europe the emperors “kept moving from one place to another” (Van Creveld, 59).

Adding to this, the secular and religious capitals of Christendom did not overlap, while in other empires, such as Byzantium, secular and spiritual authority remained located in one place (Constantinople). To make matters even more complicated, some regions which were under the authority of the papacy did not submit to the authority of the emperor (Van Creveld, 59). Unlike the Church “sector,” the imperial sector did not have a clear hierarchical order of different kinds of actors. Within the realm of imperial/secular authority, in addition to the emperor, the most significant actors were sovereign princes and free cities. At both the Council of Constance and the Peace of Augsburg, rights and authorities of princes and cities were contended with (sometimes recognized, other times limited).

For example, the final agreements at the Peace of Augsburg specifically addressed the privileges and obligations of both cities and princes. We know this because the Peace explicitly stated that it would include free knights and cities (see number 7 on page 18); thus, when provisions within the Peace referred to the “estates” of the Empire, estates could either have a sovereign prince or be a free city. In this regard, the first, fourth and fifth provisions (see page 18) were particularly relevant. These provisions stated that no estate could force another to change its religion, that ecclesiastical jurisdiction was suspended in the areas of the Augsburg Confession, and that no estate could protect the subjects of another estate. Similarly, at Constance, the concordats with the nations served a similar purpose.

On one hand, treating princes and cities both as imperial estates gives them a certain equality of authority, while on the other it gives them each a distinct authority which cannot be easily trumped. In the former scenario, princes and cities are equally recognized within the Empire and, while their jurisdictions are organized differently, they fulfil similar functions. However, in the latter case, princes and cities each have authority because they are different – they are functionally differentiated, in other words. In this case, the continued authority of both depends on their both fulfilling distinct functions. The fact that cities were already having trouble maintaining independence and authority even by the time of Constance (see Spruyt 1994, ch. 2) suggests that, at least in some cases, estates which were cities would not have been equal to those which had sovereign princes.

However, despite the fact that cities and princes were recognized within the Empire, this recognition

did not run both directions. Since the later Middle Ages, princes considered themselves “de facto, if not *de jure, superiorem non recognoscentes*,” meaning they did not recognize the secular authority of the emperor, but they did not necessarily reject the authority of the pope or the *res publica christiana* (Lesaffer 2004, 14). It was therefore common to draw upon canonists, who were writing from the thirteenth century onwards about how princes and kings were indeed comparable to emperors. For example, Johannes de Blanosco, a French canon lawyer wrote: “...A baron who rebels against the king ... is seen to have acted directly against the Prince, for the king of France is Prince in his own kingdom, for he recognizes no superior in temporal affairs” (quoted in Tierney 1964, 163). But there is a tension here: while the argument for princes’ authority was based on the lack of any higher authority in temporal affairs, many of these princes recognized the authority of both the papacy and the *res publica Christiana*. And within the latter in particular, the conventional wisdom was that the Emperor was the source of temporal authority. It therefore becomes problematic to subsume princes under imperial authority as well as not to. Princes, being temporal authorities belonged in the temporal realm—from the imperial perspective. I will reconsider this question of where princes fit within the structure of medieval international society when I discuss the church sector, since the question will have different answers depending on the sector.

### The University

In medieval international society, universities were considered *universitas*, mirroring the Holy Roman Empire and the Church (Wieruszowski 1966, 16). At both Constance and Augsburg, theologians and canonists both played important roles in shaping the nature of the debate. At both congresses, there were numerous individuals from universities, and these individuals were often charged with defining the terms of the discussion. This was especially explicit in the case of Augsburg, since the Peace applied only to those estates which had agreed to the Augsburg Confession, which was in turn written by theologians (mainly Luther and Melancthon and those they were associated with). However, theologians and canonists were also present in significant numbers at the Council of Constance, some of whom were colleagues of John Hus, so they were well prepared to contend with his arguments. In a sense then, these canonists and theologians at both congresses constituted a kind of epistemic community, in that they represented communities with shared knowledge, which they

were able to mobilize in the interest of policies.

However, in the medieval era universities were more than just hubs which facilitated epistemic communities at important councils and diets. Universities were legitimate political actors because many students and masters actually obtained their rights because of their status as a member of the university. For example, at the University of Bologna, Italian students and masters were excluded from the nations, the main organizing entity at universities, because they already had rights as Italian citizens. The foreigners, on the other hand, obtained their rights through membership in their respective nations (Kibre 1948, 8). For this reason, there were real political justifications for universities to be represented at both Constance and Augsburg; to exclude them would have meant excluding large segments of the international society's population. Thus, it seems unlikely that universities were included only because they offered authoritative expertise to the Council and the Diet, respectively.

Universities also had a particularly significant influence at Constance because they provided the model for the Council's organization. Like universities, the Council of Constance was organized according to nations. And like the nations at universities, the nations at Constance were loose geographical groupings, not tied to territorial borders. For example, all of Southern Europe was considered the French nation, while the English were initially included in the German nation until they split off as a separate nation, when numbers shifted in the direction of the Germans (Bozeman, 434-435). However, this is not to say that the nations at Constance and at the universities were not sources of identity.

The Council of Constance specifically drew upon the University of Paris's organizational system of nations. This is important to note for two reasons: 1) the University of Paris system of nations was distinct because it had strong associations with the dialectical tradition of thought, which informed its rules and structure; in particular because this tradition reinforced the hierarchical order of medieval international society at the university; 2) the University of Paris was by far the most cosmopolitan of the European universities at the time (cosmopolitan in its representation of European international society, not outside); this gave it a great deal of authority (Wieruszuwski 1966, 49; Kibre1, 8).

At the University of Paris, Peter Abelard influenced the fomentation of dialectical

pedagogy.<sup>22</sup> Sounding quite modern, he was once quoted saying: “Through doubting we come to inquiry, and through inquiry we perceive truth” . Abelard’s methods helped the University of Paris develop its strength in theology, with the liberal arts serving as its foundation. This meant that the liberal arts were by far the inferior discipline at the University; most students of the liberal arts studied them only as a precedent for theology rather than as an end in itself .

The inferior status of the liberal arts was at least one of the reasons why the nations were organized at the University of Paris. While the masters of theology were more powerful, they were also too connected to the cathedral chapter<sup>23</sup> to allow them the freedom to provide any independent leadership for the university. The nations were recognized officially as corporations in the mid-thirteenth century; juxtaposed on this success for the liberal arts, around the same time the study of Roman law was forbidden at the University of Paris because it could taint the study of theology .

Hierarchy not only characterized the disciplines covered at the University of Paris, but also the structure of the nations. At Paris, the nations were associations of masters (lecturers). Students were members, but they had no say in the day-to-day decisionmaking. Rather, in belonging to a nation, they reaped the benefits of its status . Wieruszowski, in discussing the University’s Charter, quotes the following statement: “There is to be no student without a regular master” . Daly also describes a Parisian nation as a corporation of masters working within the same rules and procedures .

Some scholars contrast the Paris model with the Bologna model of nations, casting them as archetypes of medieval organization, especially because Bologna is often placed within the “rhetorical” tradition, making the two universities philosophically distinct from one another . The differences in the organization of nations is striking; a Bologna nation was an association of students from the same region who banded together to protect common interests . Thus, student members of the nations at the University of Bologna had much more say in decisionmaking- at least officially .

However, the nations at Bologna did have complex voting practices and rules governing the conduct of meetings though. For example, many of the nations forbid members to come armed to assemblies; the German nation had mandatory attendance, violation of which was punishable by a fine; and a number of nations held votes by a “black-and-white-bean” system: white was positive

and black was negative; a collector would monitor whether everyone only voted once by counting the beans in the box. If the collector caught someone placing two beans in the box, they automatically lost their vote, and the assembly would have to start over .

Yet, regardless of how the nations were organized, they were what gave universities political authority—as well as a means to enforce that authority, as the examples of mandatory attendance and the collection of fees from the Bologna nations demonstrate. It was with this authority as a basis that universities sought to have more say in broader concerns of the international society. For example, the universities even sought to conduct external relations in matters of peace and amity, though they were criticized by the papacy and governing officials (princes and cities)(Kibre 1961, 186). Could universities have “foreign policy”? It was an ongoing question, one not easily resolved in a society with a plethora of different authorities. Inside the university’s domain, its authority was not questioned (at least by those inside).

### The Church

Constance and Augsburg shared a similar objective: to reunify the Church as the *res publica Christiana*, otherwise known as the *congregatio fidelium*, or “congress of the faithful.” One can look at the Church as an actor in three different ways: in one sense, it was the entire community of believers (*congregatio fidelium*); in another sense, it was the hierarchical administration of offices, starting from God, leading to the papacy, the cardinals, and finally to the rectors of individual parishes (the Curia Romana);<sup>24</sup> finally, another version emphasizes the importance of general councils as the representative body of the *congregatio fidelium*. At Constance and Augsburg, the relative importance of each of these versions of the Church as an actor was debated.

At Constance, this debate took place between conciliarists and papalists. The conciliarists aimed to make the *congregatio fidelium* precede the papacy as the supreme authority of Christendom (Spinka, 4; Black 1979, 1). They drew from earlier canon law, as well as from intensive study of the scriptures. According to Tierney, the canonists believed that ‘authority in a corporation was not concentrated in the head alone but diffused among the various members, that the power of jurisdiction, unlike the power of order, was conferred on a prelate by human delegation in the act of “election”’ (Black, 10, 13).<sup>25</sup> Some scholars argue that representative assemblies and constitutional

practices that were starting to be used in secular states served as a model for the conciliarists (Black, 11); this suggests that contemporary practice, in addition to canon law and the scriptures, were important in constituting how the conciliarists imagined how the *congregatio fidelium* should look in practice. For example, Juan de Segovia drew a link between the idea of the guild as a commune, the central organizing principle of conciliarism, and civic republicanism (Black, 2,12).<sup>26</sup>

On the other side, of course, were those who were not interested in conciliarism at all, and remained convinced that the *congregatio fidelium* was realized in the daily operation of the Curia Romana. On one hand, the Council of Constance's resolution tells us that the papalists "won" with Martin V's election, but on the other hand, Martin V was elected, which was an unusual situation for a pope. Even though official church accounts do not acknowledge Constance's authority before Martin V was elected, they do acknowledge that it was an ecumenical council after his election; this indirectly endorses the actions of the conciliarists.

By the Peace of Augsburg, the concerns which were expressed in terms of conciliarism and papalism at Constance became expressed in a new way: the reformers challenged the Church hierarchy not by directly arguing against papal authority and for the legitimacy of the council, but by including more people (in particular, laypeople) in the practices of the Church. This challenged the hierarchy because previously the Curia Romana had exclusive privileges to preach, minister to the public, grant indulgences and perform the sacraments. The resolutions at the Peace of Augsburg made it possible for sovereign princes and cities to determine the religion within their areas of jurisdiction—effectively dismantling ecclesiastical jurisdiction. The Curia Romana depended upon ecclesiastical jurisdiction in order to maintain its hierarchical structure. "Ecclesiastical" simply means having to do with the "ecclesia," or bishops. Thus, ecclesiastical jurisdiction marked dioceses, and these were the areas through which the Church collected taxes. A great deal of the discussion at the Peace of Augsburg therefore centered upon whether the Protestants would obtain Church property, thus allowing them to build their own infrastructure.

From the Church's standpoint, losing ecclesiastical jurisdiction meant more than losing financial stability. As a result of the Peace of Augsburg, areas which were once dioceses were now the dominions of princes in religious matters. Although the princes would have argued that these areas had been their dominions for a long time already, before Augsburg it was not so clear what the

prince's relationship was to the Church hierarchy present within his dominion. Thus, for the church this was a great loss; it not only lost property and revenue, but it lost its influence in many localities in the Empire. Without control of the dioceses, and therefore cathedrals, the Church lacked a way to organize the life of local communities, which had long been the purpose of cathedral chapters (Wieruszuwski, 18-19).

This result of Augsburg, that the Church was more removed from the regular life of individuals within international society, stands in direct contrast to the results of Constance. At the end of Constance, one of the results was the set of concordats between the nations and the papacy, which created relations and rules shared between specific local areas and the papacy. One can argue then that the Church became more involved in the day to day life of medieval international society, at least officially, between Constance and Augsburg.

Still, even after Augsburg, the Church more than any other actor had responsibilities and rights which cut across all sectors of society. For example, at both Constance and Augsburg, the relationship between the papacy and the emperor was at issue. Although in both cases the emperor called the Council and the Diet, respectively, his role in doing so was not given. Rather, it is possible to argue that the emperor called both out of necessity; in the case of Constance, no one could agree *which* pope should call the Council in order for it to be legitimate (although John XXIII called it, some would not have gone had the emperor not also called it); while at Augsburg, the pope would not call a council, and so Charles V called the Diet in the interest of reunifying the *res publica Christiana*. Presumably the situation was dire enough. In both cases, the emperor played an important role that the pope, in the circumstances, could not play—and yet, in many other circumstances, only the pope would have the authority to call a council.

In the next section I seek to make some sense of these cross-cutting relations in medieval international society. I am in particular focused on the questions: how does the concept of “heterarchy” help capture these cross-cutting relations? But simultaneously, in which relations do we see elements of hierarchy and anarchy?

### **Ordering Principles in Medieval International Society**

In my introduction, I said that I would discuss how ordering principles help identify the nature of,



and the limits of, the overlapping consensus which existed in medieval international society. After discussing the international society with the sectors of analysis approach in the last section, identifying the overlapping consensus is now more possible, given this consensus arises from the cross-cutting relations between different types of actors.

Nonetheless, it is important to note that ordering principles are an analytical device, which tell us something about the structure of an international society, but not its foundational principles or institutions. Thus, many of the practices which came up in the two historical sections of this paper will be useful for later discussions of principles of legitimacy associated with institutions. Thus, the objective of discussing ordering principles in relation to the three sectors of analysis I already covered is to create a sorting system for various relations within medieval international society. Here I include a number of ordering principles: hierarchy, anarchy, heterarchy and autarchy. In his work in progress, "International Political Structures," Donnelly has argued that we need a more extensive typology of ordering principles to take into account both historical and contemporary variation away from the conventional definition of "international anarchy."<sup>27</sup> He therefore discusses three "sets" of ordering principles: unranked, singly ranked and multiply ranked orders. Unranked orders consist of those orders in which there is an absence of superordination; Donnelly suggests that a useful term to describe such orders is "autarchy," which means self-rule. He further adds something beyond the meaning of anarchy because it is possible to have an entirely autarchic system, in which all actors persist in self-rule, while only some of them are equal. "For example," Donnelly writes, "individuals, firms, and non-governmental organizations are not sovereign equals in a system of sovereign states"(4). However, if only some actors are equals in autarchic systems, and therefore able to engage in self-rule, how do we classify the other actors which are not equals? Of course, Donnelly does not suggest that the capacity for self-rule depends on a condition of equality with other actors; if he had, why use a different term from anarchy? Nevertheless, I believe there is an unanswered question here: is self-rule possible for actors which are not in an elite group of equals? I will return to this question after introducing the other groups of ordering principles. Singly-ranked systems are those which "are encompassed within a single comprehensive ranking system," those systems which are otherwise called systems of hierarchy (4). These can be divided into "binary" and "multi-tiered" hierarchies; binary including those which have a single leader or an

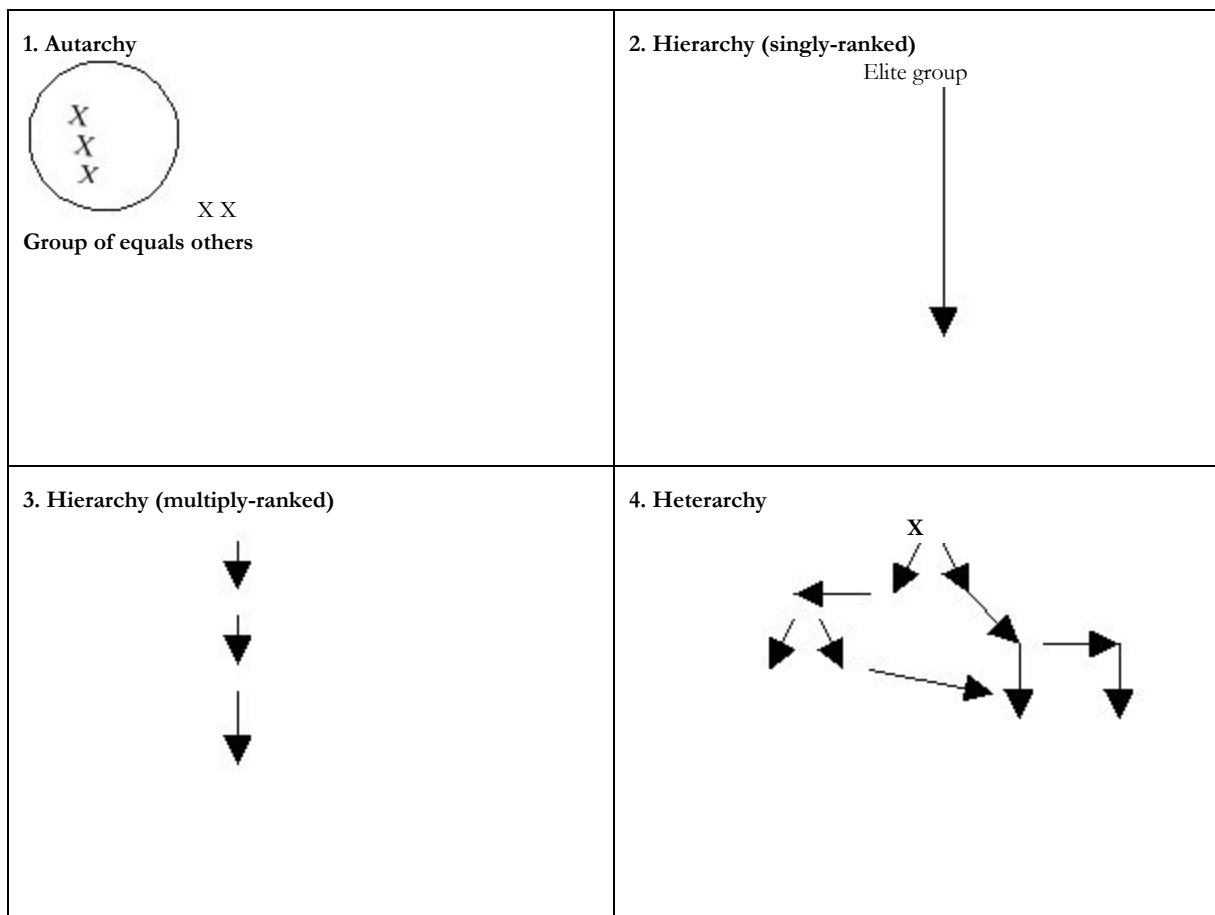
oligopolistic concentration of authority at the top, while multi-tiered hierarchies are pyramidal, with many different actors with different levels of authority based on where they stand on the pyramid (5). And although Donnelly writes, “Units are autonomous in autarchy, embedded in hierarchy, and variously related in heterarchies” (6), his suggestion that there may be groups of actors in autarchic systems which are equals raises questions about how groups of equals relate to others. Is it possible, for example, to have a group of actors which relate to each other in an autarchic manner in certain sectors of society, but who relate to each other in various ways, including degrees of super- and sub-ordination?

This, in Donnelly’s language, is heterarchy. Heterarchy is the ordering principle of multiply-ranked orders, which he describes in the following manner: “Authority, however, may be allocated differently in different substantive or spatial domains, resulting in multiple ‘hierarchies’ and potentially complex, even cross-cutting, systems of super- and subordination” (5). He further adds that while in hierarchy there is “only one top; heterarchy, on the other hand, has several tops” (6). While the value of having an analytical method to identify relations in complex, multi-tiered systems cannot be underestimated, I still think the term “heterarchy” raises more questions than it answers. First, if heterarchy consists of multiple hierarchies, why not discuss them as such? To subsume them into a system of heterarchy takes away from seeing these hierarchies in their own right. And with this in mind, how do we make sense of a system which in actuality (empirically) has multiple tops, but which argues that in fact it has only one top (the sources of legitimacy for that top)? This is a question which takes us back to the issues of functional universality and ontological universality. In the former scenario, it’s clearly heterarchy, but with several actors making universalist claims that they belong at the top of the hierarchy, it seems reasonable to continue discussing these hierarchies separately.

This is, I believe, what was going on in late medieval international society: it was a system with multiple tops, yes, and to understand the cross-cutting relations between the different groups of actors (universes/sectors), we need heterarchy. However, to understand the relations within the sectors, it is important to continue discussing hierarchy, given especially how the Emperor, princes, the Council, and the papacy all made universalist claims at times which placed them at the top of the hierarchy (in theory). With the remainder of this discussion, I will use these ordering principles as a

means of understanding these cross-cutting relations. To do so, I begin with a visual representation of Donnelly's ordering principles (see next page):

Quadrant 1, Autarchy: Here all actors are on the same level, though note how some may be in an enclosed group of equals. These are functionally similar actors, who share the same kinds of practices among each other, although their status as a group does not guarantee them any greater or better rights and responsibilities than others in the system. This may be a useful way to think about the sovereign princes in medieval international society (as the group of equals), while all others (universities, cities, etc.) in the Empire would be able to rule autonomously, while being functionally different. On the other hand, this category of a group of equals could be useful when looking from the specific perspective of any one type of actor; for example, if one placed all the universities into the "group of equals" category, they would have specific ways of relating to one another that would be different from when they related to other sorts of actors.

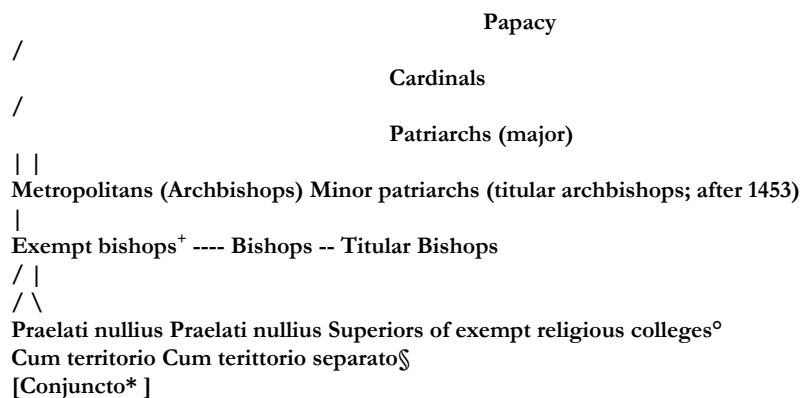


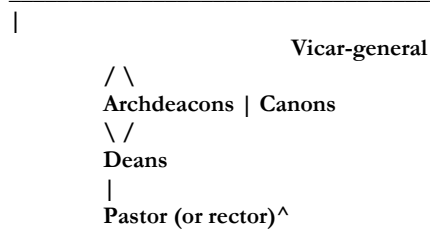
Quadrant 2, Singly-ranked hierarchy: This is a system in which there is an elite group or leader, and all others are beneath that group. Think Plato’s guardian class here. This system certainly captures the *idea* of hierarchy within medieval international society, and for this reason it is useful. For example, from the perspective of the papacy or the Council at Constance, each one might be considered the “elite class” under which all were subordinate.

Quadrant 3, Multiply-ranked hierarchy: Here there are different levels of authority, but they all flow from the same source at the top, and each level has a clear relationship of super- and sub-ordination in relation to the other levels it is near (with the exception of the level just below the top. The first three levels of the church hierarchy in medieval international society could be thought of this way (papacy, cardinals, bishops).

Quadrant 4, Heterarchy: While singly-ranked hierarchy and multiply-ranked hierarchy may be represented visually more easily, there are infinite ways to capture heterarchy, since the ways in which cross-cutting relations between different levels of analysis might occur are empirical questions. Nonetheless, I provide an example of how heterarchy encompasses multiple levels of analysis and different actors on each level, with varying degrees of authority.

What is interesting is that a visual representation reveals how heterarchy actually encompasses elements of both autarchy and hierarchy. In heterarchy, there are actors on the same level of analysis who share a kind of “equality,” and these groups may then be superordinate to, as well as subordinate to, other actors. Below is a representation of just the Church’s organizing structure in medieval international society.<sup>28</sup> Notice the variation in the degrees of authority:





<sup>†</sup>They were directly accountable to the papacy.

<sup>\*</sup>They had quasi-authority over a diocese.

<sup>§</sup>They had episcopal authority over a territory not belonging to any diocese.

<sup>°</sup>They had authority over the personnel of their own communities.

<sup>^</sup>Rectors were appointed in non-canonical parishes.

In future research, I will use these ordering principles as a starting point for getting at the institutions present within the international society at the time. The relevance of multiple hierarchies and the role of autarchy will suggest the types of rules and institutional arrangements required for the society. I aim to use the ordering principles under discussion to answer questions such as, between the Council of Constance and the Peace of Augsburg, did medieval international society transform from a society more interested in maintaining hierarchy to one that was willing to accept heterarchy as the practical state of affairs? Answering such questions will require considering both ordering principles, as well as the underlying principles of legitimacy to those ordering principles, which were not the subject of discussion here. Nonetheless, some speculative questions arise from this discussion: for example, if hierarchy was an idea as well as an ordering principle, how did it set limits on the institutional arrangements of the society? How also did it suggest new possibilities for institutional arrangements between Constance and Augsburg?

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1 For example, Cerny discusses "new security threats" as a result of complex, overlapping authorities within globalization as "neomedievalism" (1998). Not dissimilarly, Anthony Payne writes, "...the 'new medievalist' analogy is above all a metaphor and, as such, it is useful enough. However, viewed as prospective political analysis, it remains no more than a hypothesis and, even as that, it needs considerable fleshing out. ... Its great merit, though, is that it does recognize that there is a pressing need to analyse how the globalizing economy affects political structures and the political behaviour that goes on within them" (2000).

2 See, for example, Linklater (1996) and Grovogui (2002).

3 For now, I use this distinction between ontological and functional universality because it serves the limited purpose of this paper. Given that I am only concerned with actors and ordering principles of international society here, it doesn't really matter what the nature of "ontological universality" is. What matters is the overlapping consensus. Thus, ontological universality may simply stand in the background, even if it is not really "objective."

4 Which, notably, was not objective, though it was given.

5 Though it should be noted that in medieval international society it is „anarchy amidst hierarchy“ rather than „hierarchy amidst anarchy.“

6 Entry on "Schism" in *The Catholic Encyclopedia*, pp. 535-538.

7 According to the Catholic Encyclopedia, the French king was instrumental to this decision. This will be important later- perhaps part of the French uniqueness/difference argument

8 There were 500 representatives in the Council, consisting of 84 bishops, 220 proxies of absentee bishops, 100 representatives of 13 universities, 300 doctors of theology or canon law and 17 princes sent ambassadors.

9 To be entirely accurate, they elected Gregory XII (number?), but he died within the year. John XXIII was his successor. And note that it *was* John XXIII; there have been, historically, two John XXIII, since this one is often viewed as illegitimate. Hence, John XXIII in the 1960s as well. (Just as the Catholic Church, even now, refuses to recognise Pisa as a legitimate Council).

10 Because the council was 45 sessions long, the exact numbers of different types of secular representatives was not consistent for the entire duration of the council. The council also had numerous visitors in attendance, whose numbers also varied.

11 Also, Schroeder states that there were three special "concordats," whose terms were considered legitimate for five years (the French, the Spanish and the Italians). However, the concordat with the English nation was permanent. Jedin adds that these concordats were included approval by the pope of episcopal and abbatial elections, restrictions on the reservation of benefices, limitations on the concessions of indulgences, and payment of annates (fees payable to the Curia for the procurement

of offices).

[12](#) For example, the concordats included approval by the pope of episcopal and abbatial elections, restrictions of reservation of benefices, the concession of indulgences, and payment of annates (fees payable to the Curia for the procurement of offices).

[13](#) This is a position which I believe can be supported because there were precedents which demonstrate how the Church criticized scholars not just for their positions, but for their means of argument. For example, Peter Abelard, who was one of the philosophical realists whose thinking influence Hus, was harshly criticized for trying to explain the Trinity and the Eucharist in rational terms.

[14](#) See, for example, Spitz, 1956; Daniels, 1980; Thompson, 1954.

[15](#) Luther was not present at the CA; it was determined that it would not be safe for him to appear before the Papists. Instead, Melancthon, one of his followers completed most of the writing and revising of his confessions at preliminary meetings before the Confession began. Melancthon's role opens up a number of questions about authorship of the confessional articles: how much was in Luther's own voice? Did Melancthon have sufficient authority to act on Luther's behalf?

[16](#) The Marburg Articles were incorporated into ?, but all the articles which specifically referred to the Zwinglians were removed. [cite] However, one author refers to a Swiss addendum to the Marburg Articles [?]. This may suggest that the Swiss took some authority into their own hands to address the differences between the old and new religions in their own area.

[17](#) The princes present included the Electors of Brandenburg, Saxony and the Landgrave of Hesse. See Spitz (cited at end of paragraph).

[18](#) Allegedly, Ferdinand promised that toleration of Lutherans within Romanist territories would be carried out "in practice." The fact that this promised was not followed through with became one of the points of contention during the Thirty Years War.

[19](#) Catholic Encyclopedia, vol. 12, p. 705, "Reformation"

[20](#) It may be that the term "sectors" is too modern for this discussion. Another, perhaps more appropriate term is the German concept "Herrschaftsverband" which at once means "sovereignty association," "polity," "governance" and "unit of rule." The term is used by Max Weber.

[21](#) Note- Hasenclever et al, on knowledge, power and interests ...

[22](#) It is worth noting that Hus belonged to Abelard's pedagogical tradition.

[23](#) The University of Paris was originally attached to a cathedral school. In the eleventh and twelfth centuries, monastic schools were becoming cloistered from the public, relegating learning and scholasticism to only a privileged few. Cathedral schools became more popular because they gave the middle classes a venue for academic pursuits. Further, cathedrals and their respective schools brought the Church to the public, so that the Church hierarchy became relevant in even the most remote localities. For example, in contrast to parish churches, with only one priest, cathedrals would have a group of clergymen from several ranks of the Church hierarchy (Wier., 18-19).

[24](#) Note that this version of the Church as an actor does not include laypeople, since it is based on the idea of Apostolic Secession, with those ordained being the „keepers of the keys“ (cite).

[25](#) However, this argument only presents one type of conciliarism, electoral conciliarism, whose proponents believed that the Council represented the Church because it is elected. There were also episcopal conciliarists, who believed that the Council represented the Church because it is comprised of bishops; collectivist conciliarists, who believed that Council was a microcosm of the whole Church as a unified, organic entity; moderate conciliarists, who believed that the Council was an occasional legislative body and 'emergency superior' to the pope; and radical conciliarists, who



believed that the Council ought to be the normal, juridical sovereign of the Church.

[26](#) Black argues that Marsiglio of Padua also made links between civic republicanism and conciliarism, although he approached it from the opposite direction from Segovia. While Segovia related conciliarism to civic republicanism, Marsiglio extended civic republicanism to the religious sphere. In *Defender of the Peace* (1324), he argued that just as the citizenry were sovereign in political matters, so were the members of the religious community sovereign in religious matters. This is because both can be conceived as a ‘corporation of’ citizens/faithful (*universitas civium/ universitas fidelium*).

[27](#) Donnelly is not the only one who has argued this. Since the mid-1990s, there has been a proliferation of work criticizing Waltz’s anarchy-hierarchy dichotomy, e.g. Lake (1996). However, Donnelly’s work is the only one I have seen which actually seeks to come up with a new typology of sets of ordering principles, rather than just suggesting IR scholars do so. This is why I concentrate on his typology alone here.

[28](#) This diagram is my own visual representation based on the Catholic Encyclopedia entry on „Hierarchy.“