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From the Body of the Faithful to the Invention of Religion: The Long Reformation for International Relations

Abstract

This work addresses how traditions associated with canon law of late medieval international society granted authority to myriad polities in fifteenth and sixteenth century questions of societal governance. In international relations, the late medieval period has rarely been given much attention; scholars have argued that the late medieval period is too "local" of an event to be considered within broader historical discussions of international societies and systems. This, however, is highly ironic considering that late medieval international society saw itself in universalist terms. It is precisely because late medieval international society was founded upon universalism, but organized on the basis of particular polities that it is such a valuable resource for understanding modern international society.

I provide a historical narrative of the process in which a "tradition of canonical status" developed and allowed multiple political actors to all claim authority based upon the same universal foundations; this "tradition of canonical status" is understood as the set of historical practices, norms and ideas--starting as early as the second and third centuries--that allowed the formal system of canon law to develop in the twelfth century. I argue that it did not disappear with the inception of a formal legal system, but rather its customary practices took place in the context of the new legal system. The narrative then explains how this tradition of canonical status was brought into the Reformations era--which is periodized here as 1414-1563--and in doing so it illustrates the traditional character of the period, which runs counter to both historians' and IR scholars' renditions of the era as a sharp break from the past.

In international relations, this sharp break is associated with the emergence of the modern nation-state and sovereign territoriality. This work instead argues that myriad polities continued to base their authority on the tradition of canonical status, which I demonstrate through a discussion of outcomes at societal congresses. Specifically, in the fifteenth century, the predominant theme was the debate regarding conciliarism--the school of thought that viewed the council as potentially the highest societal authority--while the sixteenth century, or the period of confessionalization, was dominated by discussions of documenting discordant understandings of previously shared practices. Out of these historical processes arose the "invention of religion": before the sixteenth century, the religious and the political were inseparable, while after this religion and politics became distinct but interdependent. Their continuing interdependence informs an understanding of the gradual, but not inevitable process towards modern international society based on territoriality.

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Jack Donnelly, Ph.D.

Second Advisor

Claude d'Estree

Third Advisor

George DeMartino

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FROM THE BODY OF THE FAITHFUL TO THE INVENTION OF RELIGION:
THE LONG REFORMATION FOR INTERNATIONAL RELATIONS

A Dissertation

Presented to

the Faculty of the Josef Korbel School of International Studies

University of Denver

In Partial Fulfillment

of the Requirements for the Degree

Doctor of Philosophy

by

Sarah Bania-Dobyns

June 2011

Advisor: Jack Donnelly

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ABSTRACT

Author: Sarah Bania-Dobyns

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Introduction

“Is there any evidence that the state system may be giving place to a secular reincarnation of the system of overlapping or segmented authority that characterised mediaeval Christendom?”

—Hedley Bull, *The Anarchical Society*, (Bull 1977, 254)

Bull’s answer to this question was, in brief, no. He wrote, “The mere existence in world politics of actors other than the state, however, does not provide any indication of a trend towards a new medievalism;” in other words, the proliferation of polities other than states, in his view, did not prove that sovereign territoriality was in decline (Bull 1977, 254, 255-256). Even if these other actors could claim legitimate authority, if that legitimate authority did not directly undermine sovereign territoriality, their presence could not be construed as evidence of neomedievalism.

Bull discusses several trends which scholars discussed as potential evidence of “neomedievalism” at the time of his writing *The Anarchical Society*. These are: regional integration, the disintegration of states, the rise of private international violence, the proliferation of transnational organization, and global technological integration. The three trends only indicate a tendency towards non—state political activity which, while it was increasing (and is), did not directly (and does not necessarily) undermine sovereign territoriality. However, Bull hints that under certain conditions regional integration and the disintegration of states could indicate that state sovereignty was threatened. These conditions would be: “If ... new units were to advance far enough towards sovereign

statehood both in terms of accepted doctrine and in terms of their command of force and human loyalties, to cast doubt upon the existence of sovereign states, and yet at the same time were to stop short of claiming that same sovereignty for themselves, the situation might arise in which the institution of sovereignty itself might go into decline” (Bull 1977, 256).

Further, Bull also uses the example of European integration to suggest conditions that would indicate that sovereignty was going into decline; he says that if integration arrived at a stage in which there was doubt regarding whether national governments or members of the (then) European Community had authority, then, again, sovereignty could be in decline. Arguably, in the EU today, for example, there *is* doubt regarding whether authority lies at the level of the community or national governments in different contexts.¹ Has the international political situation changed since *The Anarchical Society* such that it is now “neomedieval”?

Neomedievalism, according to Bull, seems to have a relationship with the modern institution of sovereignty—that is, sovereign territoriality, which sometimes goes by the

¹ EU scholars who study such institutions as the Common Agricultural Policy, the European Court of Justice, the Bologna Process, among others, have observed that there is indeed a gray area between community and member states, making it challenging to discern which has authority and in which circumstances. See, for example: Linklater, A. "Citizenship and Sovereignty in the Post-Westphalian State." *European Journal of International Relations* 2(1)(1996): 77-103, Wallace, W. "Europe after the Cold War: interstate order or post-sovereign regional system?" *Review of International Studies* 25(2)(1999): 201-223, Caporaso, J. A. "Changes in the Westphalian Order: Territory, Public Authority, and Sovereignty." *International Studies Review* 2(2)(2000): 1, Mattli, W. "Sovereignty Bargains in Regional Integration." *International Studies Review* 2(2)(2000): 149, Dawson, A. H. "Organizing European Space (Book)." *Scottish Geographical Journal* 117(2)(2001): 163, Brenner, N. "Urban governance and the production of new state spaces in western Europe, 1960-2000." *Review of International Political Economy* 11(3)(2004): 447-488, von Beyme, K. "Asymmetric federalism between globalization and regionalization." *Journal of European Public Policy* 12(3)(2005): 432.

name “Westphalian sovereignty.”² Because sovereign territoriality is so central to the constitution of modern international society— in fact, some scholars have called it a “primary institution” (Buzan 2004)³ of international society, meaning that without it, the character of international society would fundamentally change—if it were to change, decline or transform, we could open the door to a potentially “neomedieval” order.

Yet, “neomedieval” is one of those imprecise descriptors that scholars use to describe something that does not fit with the current international order, and hearkens back to traditions preceding the conventions and norms we are used to in modern international society. As 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” (Payne in Held and McGrew 2000, 215). With this in mind, sometimes scholars do make distinctions between medieval and modern orders in a manner that suggests more understanding of the historical context of the medieval period would be valuable; according to Wolfe:

² See, for example: Krasner, S. D. "Compromising Westphalia." *International Security* 20(3)(1995-1996): 115-151, Linklater, A. "Citizenship and Sovereignty in the Post-Westphalian State." *European Journal of International Relations* 2(1)(1996): 77-103, Buzan, B. and R. Little. *Beyond Westphalia? Capitalism After the 'Fall'*. *British International Studies Association, BISA*, 1999, Cutler, A. C. "Critical reflections on the Westphalian assumptions of international law and organization: a crisis of legitimacy." *Review of International Studies* 27(2001): 133-150, Osiander, A. "Sovereignty, International Relations and the Westphalian Myth." *International Organization* 55(2)(2001): 251-287, MacRae, A. "Counterpoint: the Westphalia Overstatement." *International Social Science Review* 80(3/4)(2005): 159.. These are just a few examples of a broad literature that focuses on what some are referring to as a Westphalian myth, “blind alley” or metaphor. Although authors disagree about what exactly focusing on the Peace of Westphalia as a historical starting point for international relations means for the discipline, they do agree that it has had an effect on the way we see modern international relations.

³ See, in particular, Buzan’s discussion, “The primary institutions of international society” (chapter 6), in which he outlines a proposed set of primary and “secondary” institutions, inviting questions about which institutions of international society are constitutive of its fabric, and which ones may potentially be derivative.

What was different between modern and medieval political organization was that authority and territory were not absolutely fixed with respect to each other. Our ‘post—modern’ world may be assuming similar characteristics. Feudal society was marked by the overlapping authority of canon law, feudal or seigniorial law, royal law, manorial law, urban law and *lex mercatoria*. The successor system of states, named for the Peace of Westphalia of 1648, began as an attempt to organize all normative orders, including those governing religion, property, and civil rights, on territorial boundaries. The attempt never went unchallenged, but it was only in the nineteenth century that newly codified Roman Law became the formal state law that today seems to be the legal universe. This single, state—managed legal system, a relatively late development, was not the end—point of legal evolution (Wolfe 2005, 632).

Nonetheless, despite this passage which suggests potential avenues for comparing medieval and modern political organization, Wolfe primarily uses the “new medieval” term as a metaphor—and the title of his work, in which medieval is in quotes, is suggestive of this (Wolfe 2005).

Metaphors have a great deal of value for the study of intangible things such as concepts used to describe political behavior. It is probably fair to think that students of international relations would have much more trouble understanding the concept of the balance of power without the metaphor of billiard balls. But why do they help students of IR understand the balance of power? Billiard balls work well as a metaphor because they are concrete things that everyone recognizes and knows what they do. In contrast, a term like “neomedievalism” or “Westphalian” or “Wilsonian” could have a range of meanings because they are ideas that have historical eras attached to them. When we use these terms, if we wish to use them as metaphors, we have to specify *which* symbols and meanings we are trying to bring to light; otherwise, readers will draw their own conclusions based on what they know or do not know about the history behind the term. Because of challenges like this, I argue that before we use such terms as metaphors outside of their historical contexts, some shared knowledge about the historical era it

refers to is necessary. Only then can we begin making use of the term as a metaphor constructively.

Few IR scholars have given the medieval era much attention. Yet, many scholars have cited Bull's use of the term "neomedievalism," with most of them tending to focus on the "overlapping or segmented authority" (Kobrin 1998) as the primary feature of neomedievalism in contemporary international society. For example, the term "neomedieval" has primarily been deployed within the globalization literature and, as such, there has been much attention to the proliferation of non-state actors, especially regarding their authority in relation to states.⁴ Yet, Bull's allusion to a "secular reincarnation" suggests an assumption about the values that would be underlying overlapping and segmented authority. Secular values must replace something else. In other words, just discussing what differing and segmented authorities do (what IR scholars would probably be more comfortable with calling functional differentiation) leaves out a set of questions about *how* they are claiming to do the things they do. And this becomes an especially puzzling question when multiple different authorities—as in late medieval international society (cities, individual political leaders, city-leagues, priests)—claim authority on the same universal grounds.

Given that multiple authorities could draw upon the same universal foundations in late medieval international, I argue that these foundations may be understood as the underlying moral vision of the period. In order to discuss neomedievalism in

⁴ See, for example, Ruggie, J. G. "International Regimes, Transactions Costs and Change: embedded liberalism in the postwar economic order." *International Organization* 36(2)(1982): 379-415., an article which sparked much discussion to follow in the political economy literature. For a good example of a discussion of non-state actors' authority see, Maragia, B. "Almost there: Another way of conceptualizing and explaining NGOs' quest for legitimacy in global politics." *Non-State Actors & International Law* 2(3)(2002): 301, Berzins, C. and P. Cullen. "Terrorism and Neo-Medievalism." *Civil Wars* 6(2)(2003): 8.

contemporary international society, we must discuss the underlying values to overlapping and segmented authority; to simply discuss the organization of polities is to ignore the fact that a central aspect of societal medievalism was that there was a coherent relationship between the moral vision and societal organization. The example of late medieval international society allows us to ask of neomedievalism, if overlapping and segmented authority is becoming more common, on what normative grounds is it based? Thus, the moral vision of late medieval international society may be a point of comparison for modern international society: it can provide a useful lesson insofar as it leads us to investigate relationships existing between moral visions underlying international society and the organization of political actors (polities). Late medieval international society's vision was universal in its outlook and this universality was like a well that each polity could draw upon. This meant that there were multiple universalist polities in late medieval international society, while modern international society arguably only has one that claims to be: the nation-state.

But why are there such a variety of contemporary societal governance processes? And on what basis do members of these processes have authority? These questions get at the central argument of this research: that the authority of the members of these current societal governance processes is dependent upon an enduring moral vision of modern international society, which I argue is largely derived from late medieval international society. As Tuck explains, medieval thought starts from the Whole, giving value to each "Partial Whole" beneath it, all the way down to the individual (Tuck 1999, 2). This philosophical view was undergirded by a multilayered legal system, canon law, which was meant to mirror the ideal of the whole society.

It is my contention that the moral vision of international society remained even as the late medieval system of canon law slowly lost legitimacy in the sixteenth century, thus facilitating space for international society to eventually (but not inevitably) develop the law of nations. Late medieval international society was unique insofar as its legal system consciously sought to mirror the moral vision of the society: that is, that the organizational hierarchy of the international society was the incarnational expression of the body of Christ. Hence, terms like the *congregatio fidelium* (congress of the faithful) and *res publica Christiana* were used to name the society. Terms like these expressed belonging, inclusion and exclusion, as well as organizational structure.

With the introduction of the policy of *cuius regio, eius religio*, however, when the medieval notion of the societal whole was limited to local jurisdictions,⁵ claims to universality became paradoxical. Before *cuius regio, eius religio*, it was the norm for nearly all levels of society to claim their authority on the basis of universality—but they did so by locating themselves within a societal hierarchy, which was the temporal translation of universality.⁶ But once *cuius regio, eius religio* was in place, it became possible for princes and/or cities (some of which did not have princes)⁷ to claim universality *without* reference to the societal whole, even when there was nothing yet to replace it.

In the sixteenth century, claims to universality were still made via canon law, the only legal system that was used across society. Canon law always coexisted with Roman

⁵ Note, *not* sovereign states- even if local jurisdictions eventually evolved into sovereign states.

⁶ Though this is not to say there were not conflicts. As Ullman explains: “No other sphere than that of conflicting jurisdictions over clerics and ecclesiastical matters revealed so clearly the true nature of the ‘political’ tensions in the Middle Ages” Ullman, W. *Law and Politics in the Middle Ages: An Introduction to the Sources of Medieval Political Ideas*. Ithaca, Cornell University Press, 1975..

⁷ See Moeller, B. *Imperial Cities and the Reformation: Three Essays*. Philadelphia, Fortress Press, 1972..

law and common law of different regions of Europe, but unlike these other legal systems, it was not perceived to be limited in its scope; rather, it was expected to be universal in its acceptance. Thus, after *cuius regio, eius religio*, polities were claiming authority without reference to canon law. Yet, in the sixteenth century, canon law was not competing with another legal system at the societal level. It was just weak.

Claims to universality did not disappear with the weakening of canon law; instead, such claims remained, while on a parallel track evolved the law of nations, a system that did not express universality in practice. At most, sovereign states can claim universality within their own jurisdictions—and there universality stops. Yet, international relations built itself on claims of universality, and debates relevant to this paradox continue to flourish (in human rights, regarding globalization and institutions, in debates about humanitarian intervention, etc.). For example, the Covenant of the League of Nations sought to invoke a notion of universality to give credence to its globalism, and this document arguably set a precedent for future founding documents of international organizations, even if later ones used more secular language than the term “covenant.”

In contemporary international society, the multiplicity of actors involved in matters of governance makes the international level look quite neo—medieval; yet modern international society faces a paradox: behind it may lie claims to universality, but the structure of international society – the modern law of nations – does not mirror it the way canon law mirrored the moral vision of late medieval international society. Instead, this paradox suggests fragmentation. How legitimate, then, can claims based on universality be in modern international society then? Is there a relationship between these

universal claims and the organization of society that politics in modern international society could build upon more effectively?

In short, this research is able to hone in on a crucial difference between late medieval and modern international society: the changed relationship between the moral vision of international society and the central practices which holds together that society. This is another way of considering questions of universality and its pragmatic expression, and/or questions of society versus members of society – or in the broadest theoretical terms, holism versus particularism.

These broad theoretical questions are part of the underlying fabric of this research. Yet, what is more important here is the substantive contribution late medieval international society makes to understanding modern international society. Nonetheless, in order to provide a coherent historical narrative of late medieval international society, which will offer insights for modern international politics, it is necessary to consider the tools required to study international societies—which means further reflection on the broader theoretical questions I alluded to.

For scholars researching historical international societies, the challenge is to find comparative tools that allow for analyzing societies across time and/or space, while also making analytical room for the particularities of the historical contexts of each society. In other words, there are methodological questions which are equally important to those questions addressing substantive historical differences between international societies. This research contributes to understanding modern international society more fully by considering the unique relationship between the moral vision of late medieval

international society with the tradition of canon law, as well as further developing the methodological toolkit for the study of international societies more generally.

Overview of this work

The first two chapters will do the following: in the first chapter I will establish the case for studying medieval international society in the context of international relations. I will pay particular attention to how the Reformation period has been addressed in IR has a role in perpetuating particular visions of modern international society focused on sovereign territoriality. I discuss the value of historical periodization as a method of analysis for IR, arguing that beginning historical accounts of international relations with late medieval international society makes a contribution by drawing attention to myriad polities sharing authority in a universalist society. Currently, IR scholars struggle with how to understand the coexistence of varied political actors (state and non-state), especially when they make claims of universality (e.g. human rights claims).

In the second chapter, I will discuss the tools necessary to analyze the case of late medieval international society, specifically focusing on how to analyze an international society as a unit of analysis, much like a comparative politics scholar analyzes the state by operationalizing it. Thus, this chapter arrives at the specific toolkit required: I consider the tradition of canon law, which was organized on the basis of societal congresses, hierarchy, and the sacraments (the Eucharist in particular).

Chapters 3 through 5 then provide a historical narrative central to this work. Chapter 3 provides a narrative of the tradition of canonical status, a term I use to describe how myriad polities of late medieval international society drew upon the tradition of

canon law (not necessarily canon law itself) in order to claim authority. Polities drew upon an evolving authoritative tradition – built on apostolicity, synodality, and hierarchy—which eventually manifested itself in canon law in the 12th century. However, the traditions associated with canon law remained even with the formalization of canon law as the binding system of the international society. Instead, many non-ecclesial (e.g. not bishops) polities continued to draw upon the long tradition of canonical status. Thus, this chapter argues that with the emergence of canon law, the broader canonical tradition did not dissipate. In other words, even though canon law officially only granted legal authority to the administrative church, the pre-existing tradition provided a source for other polities to continue to draw upon in order to claim universal authority. This contributed to setting up the reformations era.

Chapters 4 and 5 then give a narrative of a “long Reformation” for international relations, using the tradition of canonical status as the underlying fabric of this account. The narrative of the tradition of canonical status facilitates the narrative of the long Reformation by demonstrating how polities in the fifteenth and sixteenth centuries were doing what they had always done. That is, the following: trying to maintain authority with right reference to the universalist moral vision of the international society they lived within. Thus, the Reformations period in this account is a conservative era with its primary emphasis on maintaining order in the face of threats to the integrity of the society, understood as the body of the faithful.

The narrative presented in Chapters 4 and 5 is an account of the long Reformation for international relations for several reasons. Over the time period covered in this work (1414-1563), there were ongoing sets of tensions, which are familiar to IR scholars: 1)

the tension between centralization and fragmentation; as the international society called numerous councils to re-establish order in light of schism and heresy there were also increasing divisions within these councils. 2) There was a tension between the various hierarchies/polities in international society, all of which sought to maintain authority, and sometimes conflicts arose because they sought the same authority (e.g. both lay theologians and clergy claimed authority to teach, and both bishops and princes claimed authority to rule). 3) There was a tension between official “rules” and traditions, especially as the international society sought to formalize the rules further, and polities continued customary practices. This is demonstrated particularly well via the Eucharistic controversy of the sixteenth century, when divisions arose regarding the practice of the Eucharist, which had previously been the central societal practice.

Thus, Chapter 4 gives a narrative of the period from the Council of Constance to the Council of Basel, the period that historians often refer to as the height of conciliarism. This was the school of thought that argued for the legitimacy of the council’s role in resolving the Great Western Schism, when there were three claimants to the papacy. Chapter 5 then narrates the period that is more conventionally understood “the Reformation,” since it focuses on the sixteenth century when the reformers were involved in the discussion. However, this chapter demonstrates how conciliarist ideas were brought into this period, influencing how reformers were able to claim their views were traditional. This is a divergence from the mainstream account that the reformers represented a radical shift for the Church. Nonetheless, returning to the tension between centralization and fragmentation that I mentioned earlier, Chapter 5 also demonstrates how divisions resulted from writing down separate confessions—even if the initial goal

of this process was to establish points of agreement as much as disagreement. It was this process of confessionalization that ultimately allowed the policy of *cuius region, eius religio* to arise.

In the final chapter, I close with a discussion of some implications of this account of the long Reformation for IR. In particular, I will explain that there are strong reasons to re-examine how international relations studies sovereignty and religion.

Chapter 1 Late Medieval International Society and the Reformations Era: Adopting Historical Periodization in International Relations

This chapter argues that the historical case of late medieval international society offers valuable resources for understanding what neomedievalism means for modern international society. And neomedievalism, as a lens drawing attention to globalist tendencies within IR, has the potential to encompass more of modern international society. Much like realism may be understood as a “general orientation,” inclusive of discussions of anarchy and the limits of human nature (Donnelly 2000, 9), neomedievalism could become a useful orientation if it is developed further. While the concept has been deployed frequently, its full potential has not been tapped because medieval international society itself has not been a subject of rigorous study within IR.

Although in the introduction I emphasized the critical similarity between late medieval international society and modern international society by means of societal congresses—a feature of my analytical approach that will be central in the middle chapters—it is important to remember that with every “most similar case” there is also a critical difference. In the case of neomedievalism in contemporary international society and late medieval international society, there are parallels between the forms of political organization and authority. The difference lies in how authority was understood; in late medieval international society, political authority was built on a coherent moral vision encompassed by the term *congregatio fidelium*. Neomedievalism—and more broadly,

contemporary international society—professes no such vision. Rather, we must ask ourselves what the foundations of modern international society might be. Or, stated differently, what is the place of universality in contemporary international organization?

Late medieval international society, if it has been addressed in IR, has more often been characterized as early modern, placing it in the context of the European Reformations. This has two problems: first, it presumes that medieval international society was on the brink of teleologically producing modern international society, and it does not consider the period coherent in its own right; second, focusing on the Reformations as early modern, particularly in light of IR scholars' interest in the modern (secular) nation-state, privileges a particular type of historical analysis of the era. Historians of the Reformations era recognize that reforming ideas are part of an ongoing historical process, and the lens of the Protestant Reformation (or English, French, etc.) is but one account. IR scholars have not engaged with historical literature which would challenge them to periodize the Reformations era critically.

Why Late Medieval International Society?

Some scholars have argued against the inclusion of the medieval era in discussions of international relations. For example, Buzan and Little (2000) have argued against the systematic inclusion of the medieval era in broader historical accounts of the international system.⁸ This is because they believe that the medieval era was a European

⁸ It should be noted, however, that their claim is about international systems (which they take apart into the constitutive features of the following: process, structure, interaction capacity and units) and not international societies. Were they taking the more values-based/normative approach, which it is arguable that the international society concept requires, it is possible that they might have considered the medieval era.

occurrence and, as such, was a largely “local concern” (Buzan and Little 2000, 393).

However, it is precisely for this reason—the “localism” of the period—that it has special relevance for IR. Late medieval international society was composed of communities of overlapping authority, each with universal claims but with spatially (but not territorially) limited areas of jurisdiction. As Spruyt writes:

...The Church, with its clear perception of hierarchy, saw itself as a community of believers with no geographic limits on its authority ... But as the name indicates, the Holy Roman Empire claimed the very same constituency and legitimated its power by a semireligious status of its own ... [But simultaneously f]eudal lords, Church and Empire operated in systems of crosscutting jurisdictions. Juridical competence depended on the specific issue at hand (Spruyt 1994, 35, 36).

Thus, many polities could claim universal authority, but in practice they would only be able to exercise it locally. Within the historical narrative later in this work, I refer to this as the tradition of canonical status—in other words, a tradition in which many polities could draw upon the status of canon law, which was the binding normative system of late medieval international society, without actually having formal legal status according to canon law. What mattered was that myriad polities referred to canon law as a source of authority, whether they were literally under its auspices or not.

In more general terms—and I will return to these terms in the latter two chapters of this work—many (local) polities’ practices of claiming universal authority could be called “localist universalism”—whereby universality takes on different iterations based on the particularities of time and space. This term, “localist universalism,” is especially helpful in comparing late medieval and modern international societies. However, within the historical context of the fifteenth and sixteenth centuries, canonical status is a much less anachronistic term.

Given the European character of both the concept of international society, as well as growing interest in “neo-medievalism” particularly in Europe,⁹ I argue that it is worth considering the broader effects of this particularism (whether we call it drawing on canonical status or localist universalism) on the constitution of international society more generally. Stated differently, if medieval international society is so uniquely European, and if modern international society is so European, then an analysis of the former may help facilitate greater understanding of the particular historical character of contemporary international society.

Some scholars would take issue with calling modern international society European; to some extent they would be correct to argue that contemporary international society has been globalized.¹⁰ However, institutions which have been arguably central to modern international society are historically associated with Europe (i.e. sovereignty, the balance of power, international law, etc.). This is why some scholars have taken an interest in the idea of the expansion of international society, starting with the assumption that international society is a European phenomenon, and considering how that phenomenon became global. Analyzing late medieval international society is relevant for this strand of literature because a) it adds historical depth to the character of European international society, thereby increasing our knowledge of which ideas spread potentially

⁹ See, for example, Linklater, A. "Citizenship and Sovereignty in the Post-Westphalian State." *European Journal of International Relations* 2(1)(1996): 77-103, Grovogui, S. N. "Regimes of Sovereignty: International Morality and the African Condition." *European Journal of International Relations* 8(3)(2002): 315-338.

¹⁰ See, for example Gong, G. *The Standard of 'Civilization' in International Society* Oxford, Clarendon Press, 1984, Kai Alderson, A. H., Ed. *Hedley Bull on International Society*. London, Macmillan, 2000, Keene, E. *Beyond the Anarchical Society: Grotius, Colonialism and Order in World Politics*. Cambridge, Cambridge University Press, 2002..

beyond Europe and b) it helps IR scholars understand how international society spread *within* Europe—therefore potentially facilitating understanding about expansion of international society more generally.

Second, while (political) historians do pay some attention to the late medieval period, the period usually receives attention as the period of “state formation” or the period described in terms of conflicts between “Church” and “state.”¹¹ Notwithstanding the fact that states did form after this period, this is an anachronistic means of describing the era. Medieval international relations were characterized by multiple polities¹² which I will argue were organized into multiple overlapping hierarchies—a point which reinforces the “localist universalism” which I referred to earlier. Overlaps and conflicts between these polities did occur, but these conflicts were *not* between Church and state.

Within modern international relations, realist scholars argue that the equality of actors is a consequence of their similarity as sovereign states, and equal actors are designated with equivalent rights and obligations in international society. Thus, in modern IR, similar foundations (sovereignty) grant authority to one kind of actor in international society; functional differentiation would not accord with the norm of sovereign authority. How, then, can scholars make sense of modern international society when functional differentiation occurs in practice? Because actors of late medieval international society called upon the same universal foundations to justify their authority,

¹¹ See, for example, Tierney, B. *The Crisis of Church and State: 1050-1300*. Englewood Cliffs, NJ, Prentice-Hall Inc., 1964. and Barnes, T. G. and G. D. Feldman. *Renaissance, Reformation and Absolutism: 1400-1660*. New York, Little, Brown and Company, 1972..

¹² Although Hendrik Spruyt (1994), in his significant work, *The Sovereign State and its Competitors*, did well to draw attention to the fact that the state was not an inevitable outcome of the evolution away from universality in the late medieval era—rather, the state was one of many polities that competed for pre-eminence—his account is still a story about the state.

the society is a useful case for understanding the relationship between the normative vision of a society and the practice of hierarchical organization.

In addition to correcting these limits in the international society literature, there are also clear positive reasons for the inclusion of the medieval era within international relations debates. First, the medieval era's contribution to international law via canon law is not to be underestimated. In late medieval international society, canon law underpinned all major societal agreements at the European level—and not just those agreements which originated within the Church administration, or Curia Romana (Lesaffer 2004). Although political theorists have frequently acknowledged the importance of natural law, especially the ideas of theorists like Augustine and Aquinas, to international law (and especially the laws of war)(Tuck 1999), they have not tended to acknowledge the distinct contribution of canon law. Rather, they have focused more on Roman law as the significant source for the modern law of nations; yet, this neglects the fact that the Roman legal traditions within the law of nations are there because canon law first drew lessons from those traditions.¹³ Therefore, we may say that the law of nations is partly derived from Roman law *via* canon law and its historical context—and that historical context made the edification of tradition much more important from then on.

¹³ And ironically, the law of nations and canon law have a noticeable process similarity, which the law of nations and Roman law do not share: the idea that tradition is continually built up in layers, creating the new based on the old; the modern word for this is “precedent.” Roman law, on the other hand, was not built on continual interpretation, or the “living” status, which canon law had. Two particularly pertinent examples of this are: Justinian, the author of *The Code* and *The Digest*, the two seminal texts of Roman law, forbade interpretation by scholars at universities Ullman, W. *Law and Politics in the Middle Ages: An Introduction to the Sources of Medieval Political Ideas*. Ithaca, Cornell University Press, 1975.. While this could hardly be enforced, it does demonstrate a mindset about Roman law's character as fixed. Second, Roman law was never disseminated and applied (even loosely) through Europe the way canon law was. As Fasolt writes, “no place in Europe was actually governed by the *Corpus Iuris*. At heart, the study of Roman law existed in an intellectual universe entirely its own” Fasolt, C. Hermann Conring and the European History of Law *Politics and Reformations: Histories and Reformations. Essays in Honor of Thomas A. Brady, Jr.* C. Ocker, M. Printy, P. Starenko and P. Wallace. Leiden, Brill, 2007..

The relationship between the moral vision of the society and the structure of canon law expressed itself in multiple practical ways. For example, as a legal system canon law ascribed different rights and responsibilities to actors based on where, and in which, hierarchy they stood within (in IR terms, this is a “levels of analysis” question mixed with hierarchies as organizing principles). In specific terms, hierarchy was divided first between order and jurisdiction—these may be loosely be distinguished as “moral authority” vs. “pragmatic authority”—and then on the basis of the scope of authority (the authority to minister, teach or govern). A practical example would include the following: a theologian at a university would have the authority to teach (which was a form of the hierarchy of jurisdiction) because it implied the authority to interpret doctrine. Further, by association with the university, the theologian belonged to a body (*universitas*) able to claim universal authority.¹⁴ I will address this understanding of hierarchy fully in the third chapter.

Before I discuss these nuances of hierarchy as the means of organizing late medieval international society, I first turn to the moral vision of that same international society. The moral vision is also told through the historical narrative of chapter three, on the tradition of canonical status—so here I just introduce the essential outcomes of that historical argument: that the society, built as it was on incarnational relationality, relied upon hierarchy and synodality to organize it.

¹⁴ See, for example Kibre, P. *Scholarly Priveleges in the Middle Ages: The Rights, Priveleges, and Immunities of Scholars and Universities at Bologna, Padua, Paris and Oxford*. Cambridge, MA, Medieval Society of America, 1962, Smith, P. *The Reformation in Europe*. New York, Collier Books, 1962 [1920].

The moral vision of late medieval international society

Most scholars if faced with describing an underlying moral vision of contemporary international society would probably begin with the centrality of the individual. From there they might diverge in their accounts, with some more interested in the sanctity of the individual, and others with the rights and responsibilities of the individual. Regardless of, and no matter what these divergences would be, the individual in society would be ontological. The “in society” part is critical, for individuals are no one without an “other” to relate to. Nonetheless, they are individuals in dignity and purpose before they were in society.¹⁵

Late medieval international society turns this ontology on its head. Its worldview was one of a “society of individuals,” with the emphasis on “of.” Just the names given to the society suggest this: the *congregatio fidelium* (congress of the faithful); the *res publica Christiana* (translated as the Christian people or Christian society). In Latin, “congregatio” means a society or an association, while “res publica” is a “public thing.” Although these translations may sound secular to the modern reader, in the context of late medieval international society, no society, association or thing was seen outside the context of the body of Christ. Hence, *congregatio fidelium* was a parallel term to *corpus Christi mysticum*.

To understand this latter point, consider the fact that clerics were often referred to within canon law as *res spiritualis*—literally, spiritual things (Ullman 1949, 95). This

¹⁵ For example, as different as Hobbes’s and Rousseau’s individuals in the state of nature are, they are first individuals who choose to enter society. They choose to curb individual freedoms because society will improve their lives. Hobbes, T. *The Leviathan. Reprinted from the edition of 1651*. Oxford, Clarendon Press, 1909, Rousseau, J. J. *The Social Contract and Discourses*. London, J.M. Dent and Sons, Ltd., 1950.

term was also applied to ecclesiastical property,¹⁶ which reinforces that the cleric was filling an office rather than maintaining a sense of individual selfhood as a cleric. What ecclesiastical property and clerics had in common was that they both fulfilled functions for the Church: property provided the location for worship while clerics administered the sacraments. This is but one example of how offices took precedence over personal identity: the function of the cleric was to administer the sacraments and minister to the faithful; the function of the theologian was to teach in the context of the university; the function of temporal governments was to rule in their own jurisdictions; etc.

Most importantly, then, the late medieval Christian worldview was based on incarnational relationality, which meant that personal interactions were characterized by filling in roles that were seen as legitimate expressions of the divine-human relationship. In this way, late medieval international society's worldview built on its Jewish heritage, most especially the tradition of the prophets who were the "mediators" between God and His people. However, the Christian worldview added the incarnational part to that relational character: the resurrection of Jesus, and the New Covenant it promised. Perhaps needless to say, a society that believed in a God who became human in the world, died, and then rose again, put a new spin on "relationality." "Relational" meant not just direct access to God, but being-in-God (Sachs 1991).

In particular, the resurrection was (and is) emphasized as a tangible experience—if the prophets heard the voice of God leading them and their people, then the apostles

¹⁶ See, for example: Costambeys, M. *Power and Patronage in Early Medieval Italy: Local Society, Italian Politics and the Abbey of Farfa, c. 700-900*. Cambridge, Cambridge University Press, 2007..

witnessed the risen Christ.¹⁷ And through this witnessing they obtained authority—through the concreteness of the experience—to testify on behalf of Christ. This is a reading of the early Church’s understanding of what it meant to be an apostle, and it became critical to establishing specific offices in international society, as I will discuss further in chapter 3.

But note that a witness is someone else who can verify that something occurred—in other words, they could not be the only one present. So their “witnessing” had to be recognized. And once it was, they testified to others—otherwise their experience meant nothing. As much as the concreteness of the witnessing was essential, it could only take on meaning in relation to others. This was the basis of apostolic authority, which established the foundations of Christian polities: revelation, recognition of gifts by the community, and ongoing testimony with the community.

Hence, the Christian idea of witnessing captures both the tangible quality of society along with the necessity of the community in recognizing this concreteness. Together, these two aspects of society may be summed up as the moral vision in this way: society was seen as the incarnation of Christ in the world. This meant that every act taken to organize the society had implications for the divine-human relationship. Because of this, endless questions arose regarding how the body of Christ ought to be expressed in the world—in other words, whose authority was legitimate according to God?

This bodily understanding of society is essential to grasp the worldview of late medieval international society. It meant that if an action or polity was seen as illegitimate

¹⁷ Here I am greatly simplifying my discussion in chapter 3 of the early church’s ideas of apostleship and how that informed early polity and polities.

(by other polities) according to God, society itself would be quite literally “dismembered” (Bynum 1992, 205).¹⁸ This is the meaning of schism— to sever parts of the body from the Whole (Tuck 1999, 2).

For example, late medieval international society’s view on transubstantiation is the ideal illustration (quite literally, manifestation) of the moral vision, for, until the Reformations era, the doctrinal position was that Christ was materially present in the consecrated elements of the Eucharist. This view of the Eucharist—that Christ was fully present in the world—extended beyond the sacramental practice and into all aspects of society. To threaten the idea that Christ was materially present in the Eucharist—as the Reformations era did—was to question the authority of the Church that regulated and it administered it. And questioning the authority of the Church meant asserting that it was *not* the manifestation of the divine-human relationship.

But there is another layer of apostolic authority that is important in addition to the bodily nature of society and community recognition of that authority: this is the living quality of that authority. Witnessing and transubstantiation both rely on fleshly experience in order to be valid—and fleshly experience is only known in the present. Take the example of transubstantiation again: when the elements of communion are consecrated they are believed to be the living, breathing body of Christ. And witnesses , although they may be witnesses to past events, once their authority is recognized, they are/were expected to provide continual testimony to the life of Christ—a role that

¹⁸A point I derive from Bynum’s example of a mystic’s experience receiving a vision in which Christ appeared chopped up on a plate, which for the mystic was the physical illustration of human sin.

required constant attentiveness to the present because, like the consecrated elements, Christ was seen to be living through the continued witness of the apostles.

This “living” quality was mirrored in the system of canon law, the legal and normative system held up by the moral vision of international society.¹⁹ Canon law may have done the pragmatic work of binding the society (Della Rocca 1959), but it was only able to do so because it mirrored the underlying values discussed here. In the next section I discuss this characteristic of canon law by means of the doctrine of apostolic succession, which I use as an example because apostolicity is foundational to the hierarchical organization of late medieval international society—and this doctrine was under duress during the Reformations era, as questions about which polities could claim authority and how became more frequent.

Apostolic Succession

In chapter three I will discuss the definition of apostles as witnesses to the risen Christ as the beginning of a *particular* historical take on how canon law, even though it did not emerge until the twelfth century, emerged from long-standing tradition. Apostles were historically the first witnesses of Christ, and from them stemmed the hierarchical organization of society. However, before giving a historical account of this, it is necessary to understand the ideas associated with apostolicity; in this section I ask questions of how apostolic succession became theologically foundational for establishing

¹⁹ As Ullman writes, Canon law was the one written system of law that was created for contemporaries, grew out of the exigencies of society and was thus a living law. [As such, canon law could be understood as] emanating... from a real and actively governing monarch ...[through] its repeated re-enactment, the dynamic initiative of the papacy, and its active intervention in the process that eventually shaped Western Europe Ullman, W. *Law and Politics in the Middle Ages: An Introduction to the Sources of Medieval Political Ideas*. Ithaca, Cornell University Press, 1975..

hierarchies in international society. This, in turn, informs how I use the concepts of tradition and status in the historical narrative to follow. In other words, the theological question here is, how did apostolic succession make apostles ontologically the first witnesses of Christ? This is not in fact an ontological question, but rather a question about the implications of ontological assumptions for the moral vision of late medieval international society—which in turn informed the organization of that society.

A few words about ontology are required to clarify this approach: Ontological questions are slippery, much like trying to grasp hold of grains of sand. Although you might pick up a handful of sand, as soon as you but move a finger, the grains of sand start slipping away. It is impossible to hold one grain of sand without the aid of a sieve and a microscope, just as it is impossible to capture “the” singular, universal truth behind a society’s ontology without looking at the particulars of the group. As Tillich writes,

The basic ontological structure cannot be derived. It must be accepted. The question, “what precedes the duality of self and world, of subject and object?” is a question in which reason looks into its own abyss—an abyss in which distinction and derivation disappear. Only revelation can answer this question (Tillich 1951, 174).

In the case of theological questions—which the question of why the moral vision of late medieval international society was what it was certainly would be—, the “sieve” or the “microscope” required to answer the question would be nothing short of divine understanding. Apostolicity, and the doctrine of apostolic succession reinforces this, was seen to have special status because of the assumption of the divine-human relationship. Apostles’ experience of witnessing meant that they obtained a particular authority because of their direct association with that relationship. With this in mind, let us consider how apostolic succession reinforced this and facilitated societal organization.

Apostolic succession is the doctrinal position regarding the passing on of the apostolic status historically such that the Church would maintain its integrity. I say “is” because it was *not* the doctrinal position that the earliest apostles would have known; however, the earliest apostles struggled with the same questions which the doctrine raises: in particular, who is an apostle, and how is that status passed on? How can the status be passed on if Christ does not return physically (since witnessing was required)?

The answer comes in the means of passing on the status: the imposition of hands. In this way, the new apostle would “receive” the authority to testify on behalf of Christ by means of the apostle who had witnessed the living Christ (or who had received his status from one who had) {Wilhelm, 1907 #39}. Through the imposition of hands, the successor obtained the authority to govern, minister and teach, which made them legitimate because their roles would be equivalent to those of the original apostles {Wilhelm, 1907 #39}. The imposition of hands was arguably the tangible parallel to the spiritual experience of witnessing the risen Christ, the assumption being that if the apostle had witnessed the risen Christ, Christ was acting through him, and so he could pass on Christ’s ministry through his own hands.

The practice of the imposition of hands therefore sought to mirror the relationship of the first apostles to Jesus: it mirrored witnessing with physical imposition, the community recognition in the act of the imposition—for the imposition was a form of witnessing and thus community recognition because it required at least two people to be present, and then the new successors had the same authorities which the original apostles had. These authorities—governing, ministering and teaching—became associated with the hierarchies of order and jurisdiction, which organized the society. However, these

authorities were contested in the Reformations era; I discuss this in the next section. In brief, questions were raised regarding which polities had which authorities associated with them (e.g. did clergy or theologians or both have the authority to teach? Did the episcopate have the authority to govern? Etc.)

Apostolic succession set in place a means through which the Church could maintain societal authority. I do not say “spiritual,” “temporal” or “political” authority because there were no such distinctions until *at least* the eighth century and arguably the twelfth century. In the eighth century were hints of the Investiture Conflict in the debates regarding monastic autonomy vs. ecclesial and lay, while in the twelfth century Gratian’s work introduced the divide between theology and canon law (Della Rocca 1959). Indeed, one of the more convincing arguments for apostolic succession as the exercise of undivided societal authority is the Scriptural source: “I will give you the keys of the kingdom of heaven, and whatever you bind on earth will be bound in heaven, and whatever you loose on earth will be loosed in heaven”(Matthew 16:19). This passage, unlike the passage on the two swords from Luke,²⁰ which was used by the conciliarists (for example) to justify secular and ecclesial authority,²¹ granted the fullness of authority to the Church.²²

²⁰ “They said, ‘Lord, look, here are two swords.’ He replied, ‘It is enough.’” (Luke 22:38).

²¹ In discussing the predecessors of conciliarist thought, which Tierney sees as foundational for later crises between church and state, he alludes to the two swords as a recurring image in justifying secular authority. For example, the English canonist Anglicus, according to Tierney, asked the question: “Since then both emperor and king are anointed with the same authority, with the same consecration, with the same chrism ... why should there be a difference in their powers?” The two swords image prompted this question, since if one accepted that there was one sword for the emperor and one for the pope, one might then ask, why was a decree sent out that all the world should be registered? Could kings call for people to be registered? Tierney, B. *The Crisis of Church and State: 1050-1300*. Englewood Cliffs, NJ, Prentice-Hall Inc., 1964..The conciliarist argument would be yes, based on understanding the two swords as co-equal authorities.

This source has allowed the Church to argue that the *fullness* of authority was handed singularly to Peter, which ultimately was used to justify three things: societal authority rested fully in the hands of the Church; that authority was granted to Peter, as the founder of the Church, which established the precedent for a singular authority overawing the Church (the pope); and it justified the location of the pope's office in Rome—thus allowing the Church to build upon the tradition of the Roman Empire and keep the papacy in Italy (Drake 2000).

Although this is Roman Catholic doctrine even today, none of these three arguments were uncontroversial in the Reformations era, while before that they were rarely even at issue. Until a rival pope was located in Avignon, the Romanness of the papacy was not expressed so explicitly. Until Lateran I, the papacy was not necessary to call a Church council. Prior Church councils were called by the Emperor, the college of bishops, etc. And further, during the Reformations period, there were those who even contested whether both keys were handed to Peter alone—or had they been handed to him and the disciples, which could imply a rather different organization of the Church?

²² For example, Bainton argues that Peter obtained the keys of the kingdom – which he describes as the “plural” keys of temporal and spiritual, “earthly and celestial,” because of Christ’s divinity and humanity. And so Peter, like Christ, one could argue “sometimes . . . exercises for men the regalia of majesty and sometimes the dignity of priesthood in pleading with the Father” Bainton, R. H., Ed. *The Medieval Church*. Princeton, D. Van Nostrand Co., Inc., 1962.. In other words, then, Peter’s office, and therefore church offices by extension, might be understood as an expression of the divinity of Christ.

Tradition and status

Traditio (Latin): handing over, surrender, transmission; item of traditional belief, custom, tradition (Traupman 1995).

The word we translate as tradition has two sets of meaning in Latin. The first set of meanings are making or constructing processes. The second set of meanings associate *traditio* with concepts that are more static. The term “item of traditional belief” suggests an object, not something which is dynamic like the handing over or surrender of the first group. A quick consideration of these two sets of meanings might lead one to conclude that the making processes of the first set of definitions are constitutive of more static customs. Yet, it would be worth exercising caution before drawing that conclusion; it may say item, but it is an item of traditional belief, which is rather intangible, so difficult to translate into an object. Nevertheless, this second definition is certainly more descriptive of content, while the first definition is about process.

Some scholars have suggested that it is worth distinguishing between tradition and traditions. As Chadwick suggests, “‘Tradition’ as a proper norm of doctrine within the Church, derived from the interpretation of Scripture, needs to be distinguished from particular and rival traditions” (Chadwick 1998, 104). In this sense, tradition is more like the first set of definitions: it becomes an approach to the making of a variety of other particular traditions—though, in doing so, it is a two way process. Earlier, Chadwick illustrates this point by means of the phrase ‘Scripture alone,’ which he says “is not ... a principle that can be derived from Scripture alone. The formula is actually a tradition ... it cannot work if the community and Scripture are conceived as if external to one another” (Chadwick 1998, 102).

We might say that this is an example the tradition of tradition—and, as such, it means that each constructed item of belief can never be static because it is constantly being made and remade, under the auspices of belonging to tradition. Therefore, whenever we discuss a particular tradition, we are discussing a co-creative process at work. The tradition of international law, for example, is made by centuries of precedent and a critical eye regarding its application today, based on contemporary circumstances and ideas about the future.

The irony is that, in order to understand tradition in this co-creative way (or co-constitutive, in more familiar IR language), we have to distinguish tradition from “traditions.” To do so means contradicting some of its own meaning, since we have to prematurely “stop the clock”— so to speak—in order to discuss how tradition is an ongoing process of constructing customs, practices, norms, ideas, etc.— all those habitual and binding social practices.

On the other hand, this paradoxical problem is also precisely what makes tradition the ideal analytical concept for the study of late medieval international society. This challenge of being both the ongoing transmission of ideas (mirroring the Christian idea of creation as continually generative, and the new covenant demonstrating that creation is, was and always will be, new) and also specific norms and customs which we can discuss in isolation from one another (mirroring the separation of human experience) is at the heart of the tradition of canonical status, which is the particular tradition which I use to understand the long Reformations period for international relations.

First of all, note that “canonical status” is not a historical term. It is an analytical concept I am introducing because it adds a lens through which to consider the tradition of

canon law in regards to its contribution to the authority of polities in late medieval international society.²³ In the next chapter, I start with the idea of the canonical, discussing first how it was conceptually built upon being regulative and normative, and how this ideal became expressed through apostolicity and hierarchy. A canon was defined as a straight rod or a line, and was a term used to describe an ideal in a variety of fields from theology, to art, to grammar. As a normative ideal then, to become canonized— to have the ideal in something recognized (writing, a person’s office, etc.)— there had to be an encounter with an authority who could grant that recognition. Here, then, is the co-creative process of the two types of meanings of tradition: the process of encountering Christ became the means by which the Church built canonical norms (like the hierarchies I discuss later in this chapter).

This two way street of tradition, its paradoxical character, necessarily raised questions: who could call themselves an apostle, and how were those who did supposed to organize themselves politically so as to live out their authority as apostles rightly? In the course of the chapter, I discuss how, from the early Church, myriad polities were able to claim authority, the basis of which looked canonical. For example, up until the eleventh century, it was the norm for emperors to call Church councils and summon the pope to them, a tradition which may be traced back to Constantine’s own efforts to become collegial with the bishops at the Council of Nicaea. Not dissimilarly, Church councils included many non-Church polities before papal supremacy became an explicit

²³ The history of canon law usually begins with the formal introduction of the field when Gratian published his *Decretum*, a collation of the significant canons from the early church through the twelfth century. Gratian brought these canons together through a dialectical approach, which had by then become the norm in European universities, so his compilation was more than a summary but rather a theology of society’s most central norms.

issue in the eleventh and twelfth centuries. I trace this process of canonical status from before Nicaea to the introduction of Gratian's work in the twelfth century, when canon law was formally introduced.

Further, because the idea of reformation (*reformatio*) is not easily separated from canon law, the chapter on canonical status facilitates my narrative of the long reformation for international relations. As O'Malley argues, coinciding with the increasing importance of canon law in daily life around the time of Gratian, the term *reformatio* became associated with the "reassertion (or further elaboration) of ancient discipline," often best expressed in canons (O'Malley 2000, 17). However, even though many authors have paid attention to canons in accounts of the reformation period, none have given an account of the reformation period which is facilitated primarily by a historical narrative of the canonical in international society. My focus on canon law is thus a central reason for why I begin my account of the long reformation when I do, with the Council of Constance. Gratian's historical context introduced papal supremacy as an issue, so starting with the Great Western Schism, which was a societal rupture caused by three claimants to the papacy, is pertinent.

Because of this tendency towards the reassertion of ancient discipline, I will be arguing that the reformations era was essentially a conservative era drawing upon traditions, not innovation. This was apparent in how polities in the Reformations era were able to draw upon a tradition of canonical status via the main medieval hierarchies of order, as well as in the societal congresses of the period. And I argue that the major difference from the period before Gratian lay in the status of canon law—and with it, the status of polities of late medieval international society.

The new field of canon law had created a divide between temporal matters and spiritual matters; the consequence of this was that the Church's authority could be politically divided, and once its authority could be divided, other authorities eventually had room to take its place. The distinction between the fields of theology and canon law is illustrative. Theologians began to have a spiritual monopoly over moral affairs, while canonists had authority over matters of jurisdiction. This is mirrored in the hierarchies of order and jurisdiction, which I discuss later in this chapter.

So, what was new in the reformations period was divided, as opposed to shared authority and; as the third chapter on canonical status will demonstrate, multiple polities governing across a decentralized, yet nevertheless spiritually bound, society, was the norm before Gratian. But when the Church formalized canon law after Gratian, it set itself up in opposition to other political forms. In the reformations era, I argue that it began to rely on a Leviathan-like understanding of its authority, an understanding which did not fit with a society characterized by governance by multiple polities.

The Reformation period and international relations

In international relations, if the reformation period is addressed, it is usually treated as the precursor to modern international society; as such, IR scholars tend to ask specific questions regarding how the nation-state arose during this time period. For example, the Peace of Augsburg is cited innumerable times²⁴ as a source of the Peace of

²⁴ Google scholar yields 1,410 citations searching "Peace of Augsburg" + international relations on March 1st, 2010.

Westphalia, the treaty which IR scholars widely regard as the starting point for modern international relations.

Although the Reformation period did have an important role in the evolution of the modern nation-state, focusing on this alone does not do justice to the complexity of governance within the era, as well as the moral vision underlying this complex governance. In the last section, I focused on the lens of “late medieval international society” and what it will contribute to the study of IR. Because it is an “international society” lens, most of the potential contributions I discussed were focused on analyzing organizational processes (i.e. canon law, functional differentiation, multiple hierarchies, etc.)—aspects of the society which could arguably contribute to the organizational structure of an international society, but not necessarily its “moral” or “normative” vision.

But the analytical label “the Reformation(s) period” has different connotations from the term late medieval international society. It is a term used by historians to describe a period in Europe in which the medieval Church underwent significant transformations. Thus, to some extent, *anything* relevant to the understanding of these transformations can be understood as part of the Reformation period (although in practice, only a few lenses at a time are useful): ideas, changes in institutional structures, major environmental or economic events, etc. With these lenses in mind, we could choose to discuss a “constitutional structure” of the Reformation period, given that specific practices and institutions emerged during this time; this could lead to an interesting discussion regarding whether a historical time period could have a “structure.”

But this is not what I do here. Instead, I focus on the how the Reformation period lens offers a means to understand the moral vision side of fifteenth and sixteenth century Europe. During the Reformations period, the integrity of the *congregatio fidelium* was threatened because reforming ideas countered traditional canonical ones (as narrated by the chapter on the tradition of canonical status), which would maintain the conventional hierarchies of late medieval international society; the problem was, what was conventional? What was the status quo? Many Church historians argue that reforming ideas are in fact an essential aspect of the character of both making and maintaining tradition, and therefore of understanding what may be considered legitimately authoritative. For this research, this means that discussing a narrative of the long Reformation—as I do in the central part of this work—puts a particular spin on political authority in late medieval international society.

It is first critical to understand the meaning of the term “reformation,” and how it has been used by historians. I do this in the section which follows. Second, I discuss how the Reformations era has been addressed by IR scholars, with an eye towards questions regarding other methods for including the era in accounts of international societies. In particular, IR scholars can learn from historians by considering how the Reformations era may be periodized in different ways.

The Reformations Era: A Glimpse at Historians

This section is not meant to be a complete literature review of historians’ coverage of the Reformations period. That would be neither practical nor useful, given that a) not all historians are interested in *politics* within the era, so their studies would not

offer much to understanding contemporary international society; b) this is a methodological discussion of historians' work on this era, suggesting that IR could benefit from thinking like historians in certain circumstances. IR, however, will never be history, even as it may become more historical.

"Reformatio"

In Latin there are two words which mean reformation: *correctio*; and *reformatio*. As an example, Traupman's dictionary translates these words into English as "reformation" and "Reformation" (Traupman 1995), indicating that the word *reformatio* may have become associated with the historical era of the Reformation(s) because its meaning was different from *correctio*. The Perseus online dictionary supports this point: it defines a reformation as "a transformation (very rare)." Not dissimilarly, the verb version, *reformare*, means to re-shape, remold or transform (Traupman 1995, 360).

Historians' approach to treat the European Reformation as indicative of a reforming tradition within Church polity concurs with these meanings. For example, O'Malley argues that reformation was often linked with the "reassertion (or further elaboration) of ancient discipline," frequently best expressed in canons (O'Malley 2000, 17). In other words, reformation was never invention, but the re-constituting of traditions in light of current affairs.

This re-constitution, however, is taking place all the time in the Church and in international society's polities. Yet, one of the Latin definitions suggested that reformations, as transformations, are rare. Hence, there must be a *via media* which would

take into account that reform does mean revisiting tradition, while not including as reformation every circumstance of remolding of traditions.

Historians have responded to this challenge by narrating the Reformation(s) starting, or focusing upon, different times and/or places within Europe. There are many studies of the Spanish, French, English, German, etc., Reformations. But the studies which are most relevant for this research are the ones which problematize the time period in which the Reformations began, and include more of Europe in their analyses. For example, Diarmaid MacCulloch's study of the (long) Reformation actually begins with an analysis of traditions within the early Church, and then provides a nuanced narrative of a long period of reformation, taking into account different reforming ideas and different responses to these ideas based on geographies and identities (MacCulloch 2003).

Other historians have been interested in a more complex history of the Reformations because conventional accounts have drawn too stark identities between Protestant and Catholic before those identities existed (Wallace 2004). This is not unlike IR scholars' take on the era as, for example, a "Protestant" phenomenon, a point I will address more fully in the next section. For now, what matters is that while the Reformations may have been a rare, transformative era in European history, it was a nonetheless an era may be understood as taking place over a long period of time.

Schism and Heresy

The historical narrative of the "long Reformation" given in this work runs from the end of the Great Schism (1414) to the Peace of Augsburg (1555), with a glance

towards the Council of Trent, which partially overlapped with the Peace of Augsburg. By starting with the early fifteenth century I am suggesting that the resolution of the Great Schism was part of the reforming character of the period.

“Schismatic” was (and is) not a term which was (is) used lightly in the Church.

According to Forget, a schism is:

...the rupture of ecclesiastical union and unity, i.e. either the act by which one of the faithful severs as far as in him lies the ties which bind him to the social organization of the Church and make him a member of the mystical body of Christ, or the state of disassociation and separation which is the result of that act (Forget 1908).

Forget illustrates this definition with St. Paul’s statements in Corinthians, as well as St. Jerome’s and St. Augustine’s theological arguments. In summarizing the former, he suggests that St. Paul argues that “the union of the faithful ... should manifest itself in mutual understanding and convergent action similar to the harmonious cooperation of our members which God hath tempered ‘that there might be no schism in the body’” (Forget 1908).

In addition, also according to Forget, Jerome’s and Augustine’s writings suggest that “schism” and “heresy” must go hand in hand. The line between the two is difficult to draw; Jerome argues that heresy “perverts dogma,” while schism “separates from the Church.” Concurring with this, Augustine adds that [quoted in Forget] “schismatics deviate from the fraternal charity, although they believe what we believe.” And they both agree that “practically and historically” schism leads to the denial of papal primacy. Jerome also observed that there were few schisms that did not inflate heresy charges in order to justify its own split from the Church hierarchy (Forget 1908). For our purposes, it is worth noting that the period covered in this research formally includes both schism

and heresy; and, for the times with the period in which schism and heresy were not formally present, it is possible to read a schismatic and/or heretical character at work.

For example, schisms, then, may be read as examples of those rare, transformative events or moments that are defined as reformations. In this regard, it is possible to look at schism and reformation as two sides of the same coin, whereby schism requires reformation, and true reformation (if it remolds tradition enough) implies schism.

Note also that Forget takes care to discuss how Jerome and Augustine rely upon a Pauline understanding of the Church as body, and therefore the definition of schism relies upon this. Separation from the Church hierarchy is not just an organizational severing, but a dismembering of the integrity of a living body. Hence, changes to practices that maintained the integrity of that body—for example, the hierarchies of late medieval international society and the Eucharist—were threatening because they defaced the relationship between the human and the divine. In medieval Christian terms, to threaten the integrity of the Church was to threaten the right relationship between the Church and Christ, and therefore to threaten the Church’s authority— which was understood to overawe all other worldly authority.

The sixteenth century, the period in which the Augsburg Peace took place, is not normally considered “schismatic.” Neither is the fifteenth century always considered “the reformation.” But there are good reasons for calling the entire period a long reformation that was schismatic: during this span of time, late medieval international society struggled to re-establish its integrity by the reassertion of ancient traditions in light of new circumstances. This was true of *all* parties, whether “Catholic” or “Protestant” or

“orthodox” or “radical.” Different parties re-asserted ancient traditions in different ways, resulting in the patchwork of confessional politics in the late sixteenth century.

The Reformation and IR

IR scholars have tended to concur with conventional accounts of the Reformation, focusing on the modern nation-state, and taking particular note of the influence of Protestantism. Thus, before discussing a “long Reformation,” as I have been suggesting, it is necessary to understand how IR scholars have considered the period.

Here I discuss the three IR scholars who have made significant contributions to the field in the area of reformation studies, Nexon (2009), Philpott (2001), and Spruyt (1994), each of whom discuss the nation-state and/or (in Philpott’s case) Protestantism in relation to the reformation period in depth, and in doing so, make specific contributions to IR as a field.

At first glance, the reasons for including Spruyt’s work may not be obvious. Spruyt, unlike Nexon and Philpott, does not set out to analyze the Reformation period. His objective is to understand how the sovereign state eventually “won”—in the sense of evolutionary competition—as the primary unit of international society. Nevertheless, in making this argument, Spruyt discusses a long period of history which many historians might well include in a period of “long reformation.” (Or even characterize as late medieval international society as this work does.) Spruyt’s account includes the Investiture Conflict, the rise of absolutism in France and the decline of city-states and trading leagues through the fourteenth century. His work therefore overlaps considerably

with the historical period discussed in this research, and it therefore helps to demonstrate why a narrative of the long reformation is useful for international relations.

Nexon

Nexon's work, like this one, is similarly troubled by superficial accounts of the Reformations within international relations research. With this in mind, he asserts that "many of the most important political ramifications of the Protestant Reformations did not stem from any *sui generis* features of religious contention; they resulted from the intersection of heterogeneous religious movements with ongoing patterns of collective mobilization." In other words, religious differences intercepted processes that were already taking place, leading to shifts in the European balance of power (Nexon 2009, 3).

Nexon has one thing right. The Protestant Reformation did not neatly give rise to the modern, sovereign territorial nation-state; there *were* complex processes at work among actors of late medieval international society, and by the 16th century these processes might be differentiated on the basis of religious differences. There is also no doubt that these differences would have interacted with numerous processes that were already at work in international society, such as those which Nexon identifies as central to his work. The processes he focuses upon may be summarized as follows: first, religious differences/identities encouraged mobilization across what had been distinct (ecclesiastical) jurisdictions because subjects were no longer necessarily confessionally identified with their rulers; second, by introducing religious differences into the picture, "political" and "religious" objectives more often came into conflict, while before they had been inextricably linked (Nexon 2009, 3-4).

Even though Nexon gives a much more nuanced account of the causes of the Protestant Reformations in Europe, the fact that his argument is a causal one means that his interest does not lie in an explication of the processes or political mobilization; he is interested in the fact that there *were* processes at work, and the questions of how those processes arose is beyond the scope of his work. He is indeed correct that there were ongoing processes of political mobilization that reforming movements interacted with—and studying these interactions is a worthwhile endeavor. However, considering the character of the processes at work, and the historical construction of those processes, as this research does, is also a valuable endeavor, since it draws attention to the critical differences between modern and late medieval international society.

For example, at first glance the processes of political mobilization that Nexon considers, involving myriad (non-state) polities, may at first glance parallel the contemporary idea of neomedievalism in international society. Yet, even if there are neomedieval tendencies in modern international society—in other words, shared political features between the late medieval and modern international societies—there is no doubt that modern international society lacks the same moral vision as fifteenth and sixteenth century Europe.

I would argue that ultimately Nexon is interested in how new confessional identities interacted with, and even triggered, political processes insofar as it allows him to explain how the balance of power in Europe changed during this time. This has an important implication for the character of his work: he cannot stray too far from the realist framework if he is interested in the balance of power. Although he differs from the most conventional neorealists since he is interested in change, which realists do not have

the resources to explain, he must assume some degree of continuity in the international system in order to remain committed to the notion that there is a balance of power. And the continuity he assumes limits his understanding of Reformation polities.

The continuity he assumes is evident in his choice to discuss “composite states” as the units of analysis within, what he refers to as, early modern Europe—which gets at the second implication. While the term “composite states” does acknowledge that there was a different kind of state present in early modern Europe, it still calls them states, suggesting that they were to some extent similar to other states—such as modern, territorial nation-states. For Nexon’s purposes, this similarity is useful to maintain so as to focus on the shift within the balance of power, as well as for comparative purposes (it is easier to compare Braeburn apples to Fiji apples than it is to compare apples to kiwis).

Nonetheless, his definition of a composite state has some useful and accurate characteristics regarding polities within late medieval international society. He writes that,

... most early modern European states were composed of numerous subordinate political communities linked to central authorities through *distinctive contracts* specifying rights and obligations. These subordinate political communities often had their own social organizations, identities, languages, and institutions. Local actors jealously guarded whatever autonomy they enjoyed. Subjects expected rulers to uphold their contractual relationships: to guarantee what they perceived as ‘customary’ rights and immunities in matters of taxation and local control (Nexon 2009, 6).

Take out the language of state and Nexon’s definition could describe how multiple hierarchies within late medieval international society held authority and wielded it within their own local jurisdictions; but even taking out the language of state, Nexon remains focused on hierarchy as a form of organization alone, and in late medieval international society, hierarchy was both a form of organization and a theological principle.

Contra Nexon, I would argue that the organization of authority described above—which he claims is associated with composite states within the Protestant Reformation era—was in fact the norm in late medieval international society. Polities in the fifteenth and the sixteenth century were doing what they had always done: claiming authority on the basis of their own association with the Church universal. There were, however, other changes within international society which made rather “orthodox” political behavior become a problem. This was the enhanced authority of canon law from the twelfth century—an argument which I will discuss in more detail later.

Philpott's Revolutions in Sovereignty

Philpott, in *Revolutions in Sovereignty*, is interested in how ideas associated with the Protestant reformation contributed to the constitution of the sovereign state, the primary unit of modern international society. Ultimately, Philpott does not diverge from the traditional association of the Reformation with Protestantism. He also does not diverge from the Weberian notion of Protestant ideas underlying the structure of the modern nation-state. Instead, his contributions lie in two areas: first, he focuses on the constitutive role of ideas in the making of modern sovereignty (e.g. economic) which were at work in the evolution of the nation-state.

Second, he contributes to understanding international society as an analytical concept by discussing a “constitution of international society.” “Behind wars and commerce and investment and immigration, prior to alliances, leagues, concert, and balances of power, beneath agreements governing trade, armaments and the environment, is the constitution of international society” (Philpott 2001, 11). Constitution here serves

the purpose that Bull's elementary and primary goals of international society served (Bull 1977, 8). Philpott defines a constitution of international society as:

... a set of norms, mutually agreed upon by polities who are members of the society, that define the holders of authority and their prerogatives, specifically in answer to three questions: Who are the legitimate polities? What are the rules for becoming one of these polities? And, what are the basic prerogatives of these polities? (Philpott 2001, 12).

Philpott uses the three questions above to provide a structured way of assessing whether and what sort of international society is present. These questions focus on membership, rules and the prerogatives of polities, giving him three lenses through which to consider changes in the constitution of international society, which he calls the three "faces of authority" (Philpott 2001, 15).

In other words, authority underlies the constitution of international society; or, as he states it even more explicitly, the "fundamental rules of authority" are the essence of the constitution of international society (Philpott 2001, 15). And he defines authority as "the right to command, and correlatively, the right to be obeyed" (Philpott 2001, 16). However, Philpott does not delve into a discussion of authority—in particular, he does not ask how it might be distinguished from other related concepts such as power and legitimacy. Rather, the definition of authority he provides serves as a basis for a more nuanced understanding of the constitution of international society.

For the scope of his study, it is enough to identify the faces of authority and the questions they imply in the constitution of international societies. His objective is not to understand the processes underlying rules of authority, but rather how authority, as the basis of a constitution of an international society, is involved in the process of changing what he implies is its central institution: sovereignty. In other words, Philpott deploys

authority as and analytical concept only as a means of understanding sovereign territoriality.

Illustrating the relationship between the authority, the constitution of international societies, and modern sovereignty was a useful contribution. But authority was vested in myriad polities in late medieval international society and associated with multiple hierarchies, which potentially offer resources for understanding much more beyond sovereign territoriality.

Spruyt

Spruyt's story is an economic one: he seeks to explain the (not inevitable) emergence of the modern nation-state on the basis of trade, which he argues is an exogenous variable causing different arrangements in institutional and social bargains across Europe (Spruyt 1994, 6). I have indicated that it was not inevitable because, in Spruyt's view, were it not for trade, sovereign territoriality would have never proved the most efficient form of political organization.

Therefore, even though Spruyt remains firmly focused on the modern nation-state, his approach to analyzing its emergence is quite different. He specifically argues against what he calls unilinear accounts of history, which are accounts that "affirm the consequent." As he says, "a theory of change should allow for variation in the observed outcome"—in much the same way that variation occurs in biological natural selection (Spruyt 1994, 6, 22-23). This means that in Spruyt's account, the eventual triumph of the modern nation-state as the central form of international politics is not attributed to any normative feature of sovereignty or sovereign authority. Other forms of political

organization existed, but they could maintain authority after the thirteenth century (Spruyt 1994, 10).

His account is thus inclusive of discussions of “competing” polities to the nation-state, and he spends considerable attention focused on the development of hierarchy within these polities—specifically, an entire chapter, titled “Modes of Non-Territorial Organization,” describes the hierarchical organization of feudalism, the Church and the Empire. This is what allows him to argue that “structure is partially determined by the prevalent type of units” (Spruyt 1994, 5)—an argument which fits with his economic lens.

Spruyt is probably correct that economic efficiency had something to do with the eventual survival of the modern nation-state; he also is correct that France’s absolutism was an important factor in this process. Nonetheless, such absolutism still coexisted with other forms of political organization for several centuries after Spruyt’s turning point, the twelfth century. Although the divine right of kings was spoken of this early, it was articulated in the context of another commonly held view: papal supremacy (Tierney 1964). Thus, as influential as economics may have been in shaping political organization, another dimension of the story would take into account the persistent normative vision—or the complementary role of ideas, as Philpott would counter.

Spruyt’s contributions are threefold. His economic lens, balancing unit competition and trade, provided a new, viable account of the formation of the modern nation-state for IR. Further, this focus on competition, survival and selection among units avoids teleological historical narration. Finally, his case studies pay attention to hierarchy within the three types of polities—indicating that hierarchy was central in late medieval

international society. (Hence, unlike Nexon, he takes more interest in the variety of polities in the era).

But note a limitation of Spruyt's study: he has given a coherent account of the effect of unit type on the structure of international society. He has not said anything about the whole of international society. And although it is true that structure does not "do" anything of its own accord (cf Donnelly 2010), it *is* present and it consists of more than just units. It is a society focused account which I will give, and which allows room for an analysis of the relationship between the moral or normative vision and the constituent polities of late medieval international society.

Historical periodization: some challenges for IR

In the previous sections I have discussed how literatures from various disciplines suggest that the inclusion of late medieval international society, and especially the Reformation era, has valuable contributions to make to understanding modern international society. In this section, I begin discussing explicitly the methodological questions required so as to carry out this research program. I argue that IR must begin asking questions regarding how to adopt historical periodization as a method.

Not all IR scholars have ignored the possibilities of historical periodization. Martin Wight was probably one of the first to acknowledge the importance of the approach; he suggested at least thinking this way in *Systems of States*. He argued that, depending on when one starts giving an account of international society, it "wear[s] a different aspect." He refers to the possibility that, for example, the Peace of Lodi would draw attention to "centuries of doctrinal conflict" (Wight 1977, 114). Not dissimilarly,

Callahan, on the other hand, makes a case for a different historic marker in order to give a different account of nationalism: a treaty setting the terms of national humiliation days. Callahan, like many IR scholars, is motivated by the idea that the Peace of Westphalia simply cannot give us the same kind of understanding of nationalism (Callahan 2006).²⁵

Buzan and Little also spend considerable time discussing the value of historical periodization in their *International Systems in World History*, noting that while there have been some examples of IR studies using historical periodization (see footnote above), few have discussed it critically (Buzan and Little 2000, 389-391). In their view, IR is particularly well placed in order to contribute to (world) historians' approaches to periodization because of its attention to the whole over constituent parts—and in their study this means the “international system” over units of analysis (Buzan and Little 2000, 392-393).

I concur that IR's focus on the whole—though the whole I am interested in is international society, not the international system—means that it needs a method of periodization that allows it to remain consistent with this focus. To develop such a method, I draw tools from historians' and comparative politics scholars' approaches; taken together, tools from each of these perspectives help establish how to construct a coherent historical narrative and to construct it such a way that it has analytical rigor valuable for ongoing comparative research.

²⁵ See also Thomas, W. "Norms and Security: The Case of International Assassination." *International Security* 25(1)(2000): 105-133, Meadwell, H. "The long nineteenth century in Europe." *Review of International Studies* 27(2001): 165-189, Sofka, J. R. "The eighteenth century international system: parity or primacy?" *Review of International Studies* 27(2001): 147-163. for similar methodologies, but applied in different historical periods of interest to international relations scholars.

Historical narration

In the earlier section on the historians and the Reformation period, I indicated that the trend in the historical literature is to broaden the time period discussed as “the Reformation;” this has much to do with the meaning of the term reformation, suggesting the re-assertion of ancient traditions. However, retelling historical eras starting from different time periods is an established form of critical historical revisionism. Starting a narrative from a different historical time period or event allows historians to shift the focus to different processes and actors, often ones that have not received adequate attention in prior studies. For example, one of the reasons why Reformation scholars start narratives in the fifteenth century is because reforming ideas similar to Luther’s were already gaining momentum in certain regions of Europe (e.g. the Hussites). By analyzing fifteenth century reforming ideas, our questions about the era change; instead of, for example, asking how reforming ideas in the sixteenth century influenced the formation of the modern nation-state, we might ask why earlier reforming ideas did *not* have this effect (among other questions).

In particular, historians suggest that the time period included within a narrative has implications for how we see the future. For example, Lorenz asks the question, is it threatening to the nation-state to write about its fragmentation? Does this threaten a “national past”? {Lorenz, 1999 #40, 26@26}. A question like this has relevance for this research because, by analyzing late medieval international society, it brings to light aspects of modern international society which IR’s current focus on the nation-state have not made room for—i.e. the underlying moral vision of late medieval international society, functional differentiation, hierarchy, and the tradition of canon law, etc.

IR's fixation on the nation-state has also meant that much of its research has "mined the past" for sources which confirmed the present international order, an approach which Spruyt called unilinear history. Historians have regularly considered the consequences of reading history "backwards" or "forwards" {McNeill, 1995 #41}—in other words, if, for example, we begin by asking about the character of functional differentiation among polities in late medieval international society, and then look for modern iterations, we will analyze different material compared to if we look for contemporary functional differentiation and then dig the past for its origins. Which is right? Neither. But they both have consequences.

Time and comparative analysis

Recent work in IR suggests that there is an interest in (the) historical origins of modern international relations; in addition to studies centered on the Reformation period as foundational for IR, such as those studies discussed earlier, there are many other recent works considering different historical periods as central for IR.²⁶ In order to argue about origins of international relations, it is necessary to reason regarding why given accounts begin and end when they do. At the very least, scholars interested in causal arguments about origins should take some interest in historical periodization.

Consider it a different way; many historians have tried to make the late medieval era more manageable methodologically by focusing on just the French Reformation, or just towns, or just the papacy or monasteries. These studies do contribute greatly to detailed, particular understandings of each of these narrower processes. But what if we

²⁶ See, for example Teschke, B. *The Myth of 1648*. London, Verso, 2004, Callahan, W. A. "War, Shame and Time: Pastoral Governance and National Identity in England and America." *International Studies Quarterly* 50(2006): 395-419..

want to understand society as a coherent whole? If we do not make use of time in order to define cases, then we would be doing nothing but providing a static snapshot description of an international society. This might make an empirical contribution if it was new material for IR, but it would not contribute to a more general understanding of international society from a comparative perspective.

Thus, while historians add much to critical approaches towards thinking about history, comparative politics scholars add valuable methods that make it possible to carve up time almost as if it were tangible. In the section which follows, I focus on an especially erudite rendition of such a methodology, which I will be building upon in the rest of this work.

Bartolini on Time and Methodology

Bartolini's article, "On Time and Comparative Research," was published in 1993. At the time of writing, he describes the previous twenty years as a time of "fading ...disciplinary distinctiveness" between history and the social sciences. During this period, well-known works by Tilly and Skocpol were published, calling their work "historical sociology" (Bartolini 1993, 133). Yet, Bartolini did not see the increased dialogue between historiography, history, sociology and political science necessarily as a sign of progress. Rather, he writes that while many of the works written in this period aimed at a "historical comparative method," they in fact did historical comparison, but had little methodological guidance to offer. Skocpol, for example, adopted Mill's most-similar/most-different methodology in her study, which Bartolini contends lacks "history" (Bartolini 1993, 134). Of this, he writes the following: "where is the place for

temporal variance in these schemes? The cases are different and properties are present or absent, but none is assumed to vary over time” (Bartolini 1993, 135).

Bartolini is therefore advocating the explicit consideration of diachronic variation in addition to synchronic variation. He suggests that establishing the difference between the two methods becomes difficult because there are misunderstanding about what the terms “history” and “historical” mean. “Being ‘historical’ simply means to consider historical events and factors more or less implicitly and systematically; it rarely seems to imply that one should consider explicitly and systematically the variation over time of independent and dependent variables.” Thus, the most important question is how to make use of history—not how to be “historically grounded” (Bartolini 1993, 135).

Here I diverge slightly from Bartolini. He is quite correct to raise the question, how do we use history? For IR scholars, this is an important question; we should ask this to consider which history we study, why and for what purpose. We should also ask it in order to guide building appropriate methodologies for using history, once we have decided which history to use and why. Bartolini would be less interested in the first group of questions I raised— which history, why, and for what purpose— because they do struggle with issues of how to be more historically grounded. Given IR’s consistent presentist focus, these are questions that cannot be neglected.

Nonetheless, Bartolini usefully separates these two sets of questions from one another, by suggesting that we leave behind the terms “history” and “historical” at least when discussing diachronic variation. Instead, he advocates using the terms “time” and “temporal variance” so as to highlight its features as an “objective dimension along which to gather information and make observations” (Bartolini 1993, 132, 135). The

separation also has the advantage of distinguishing questions about cross-spatial variance and cross-temporal variance from questions about history; in other words, neither method necessarily focuses on “contemporary” or “historical” material (Bartolini 1993, 136).

Therefore, an IR scholar might choose to focus on cases in the past, with the emphasis on spatial variation; another might choose to take two “cases” from different time periods—requiring that he or she consider the temporal variance between the two.

But in the latter scenario, how are these cases constructed? How does one study temporal variance in its own right? Bartolini spends the majority of the rest of the paper on these questions, but before I discuss his answers to these questions, it is important to note the motivations behind his argument, especially since I will once again diverge from his argument. First, he says that it is his objective to show how combining cross-spatial and cross-temporal analyses is the preferable method to use in comparative historical research (Bartolini 1993, 131). While Bartolini may well be correct about this, he is in a better position to make his case as such, since there is a well-established body of research in comparative politics considering synchronic variation. Such a wide body of literature in the domain of “comparing international societies” does not exist, however, so by necessity, I am focusing on *one* of the two methods.

Second, Bartolini makes it clear that he is committed to a positivist and rationalist research program, and suggests the following criteria as a minimum standard of shared assumptions for comparative historical research:

- The goal of comparative research is to explain;
- Evaluating whether causation is present requires assessing variance in the independent and dependent variables;
- Descriptive accounts should be translated into networks of variables;
- Properties of variables should be categorized into a “matrix of data,” in order to isolate temporal and spatial variance;

- The variables should be organized into a “data set,” regardless of whether the data is qualitative or quantitative. Researchers may use data which is already organized as data, or they may come up with a process by which to organize the data themselves (Bartolini 1993, 136-138).

I would argue that most of these goals are, at the very least, premature for the international societies research program. Without clear means of operationalizing the concept of an international society, it is unwise to attempt explanatory theorizing. There is also a valid argument to be made that attempting causal theorizing with a concept as difficult to operationalize is simply inappropriate. Regardless of which position one takes, it seems clear that Bartolini’s method can offer a great deal in terms of operationalization. Establishing clearer networks of variables, and charting the variation between those variables in an organized manner, is a worthwhile endeavor. Thus, I build on the positivist aspects within Bartolini’s assumptions, but not the rationalist ones.

With these elements of Bartolini’s assumptions in mind, I turn to the question of how time can have a “unit-identifying” aspect. A crucial first step is making use of periodization in analyses which would otherwise be cross-spatial. For example, Bartolini discusses Lijpart’s proposed method of conducting a study about three different countries, and then dividing these three countries into different time periods in which the same variables are considered. The value of such an approach is that it increases the number of cases without adding too many more variables which must be controlled for (Bartolini 1993, 145). Bartolini therefore argues that one can “‘create’ temporal variance” by making “observations at different time-points separated by intervals which may be more or less regular *or* by observations of the general ‘periods’ which follow on from one another” (Bartolini 1993, 147).

Bartolini argues that the choice of which time points or periods should be driven by the research question. He uses the example of a study of the history of the French Parliament in order to ask what the appropriate temporal units should be. If the researcher is interested in changes to the political system over time, then focusing on different regimes as units would be appropriate. But, if the researcher were interested in legislation in a particular policy area, then it would be more appropriate to study the different legislative periods (Bartolini 1993, 148). The importance of these sorts of questions is precisely why I argue it is necessary to consider the more metatheoretical questions about how, why and for what purpose IR scholars use history; too often, IR has fallen back on state-centric analyses, when in fact scholars are interested in non-state political units. Using time as a means to identify units is especially valuable for historically inclined IR scholars because it provides a means to draw boundaries on political phenomena which do not have easily identified spatial properties.

But perhaps even more difficult than coming up with the right temporal units is the question of how one identifies temporal variance empirically (Bartolini 1993, 145).

Here, Bartolini has guidance, though none of it is in the form of concrete examples. He argues that one should establish time periods for comparison, in which the relationships are distinct from other time periods, worthy of comparison (Bartolini 1993, 149). He refers to historical sociologists' methods in this regard: "time is conceived as a continuum which identifies two extremes that are contrasted in their fundamental structures and value, and essentially represents the transition process from one type to the other" (Bartolini 1993, 151). The problems with this approach arise in identifying thresholds and transitions; to discuss transitions, one must have an endpoint in mind— a

transition *to* something—for example, nationalism, which requires a theory of nationalism, not of temporal variation (Bartolini 1993, 152). Problems such as these can create obstacles to identifying temporal variance because one is approaching the study with an outcome in mind (Bartolini 1993).

Conclusion

The purpose of this chapter was to make the claim that the study of late medieval international society has particular relevance for the understanding of societal organization within modern international society. I began the discussion with “neomedievalism” because it is a concept that captures IR scholars’ fascination with understanding governance that does not comply with a state-centered international society. I have argued that late medieval international society offers a wealth of resources to understand questions regarding how myriad polities claim authority within an international society. To make use of the late medieval period in understanding modern international society, it is necessary to understand the historically located moral vision of the period in contrast to the modern, Westphalian vision of modern international politics. Focusing on the moral vision also has the advantage of undoing some of the “presentist” orientations that IR scholars have taken on by emphasizing how it (the moral vision) contributed to the gradual, not sudden constitution of modern international society.

Also, in the course of this discussion I especially emphasized functional differentiation. Current IR scholars have been interested in this concept offering in so far as they see divergences from the norm of equal, like actors: in a world in which international law is built upon sovereign, territorial states as the authority of members of

international society, how do we understand those actors which do not fit these boundaries?

While contemporary international society is peppered with violations of this norm, this is not evidence of neo-medievalism. While we may note countless examples of functionally differentiated actors in modern international society, we need to ask the question, on what basis do these actors claim authority, especially knowing that there is not an unifying moral vision currently with a legal system to mirror it (as canon law and its tradition did) as in late medieval international society? This is not to say that modern international society lacks morality, but rather that the relationship between a moral vision of international society and its organization are not integrated. This dis-integration is critical to understand a modern international society driven by nation-states but populated increasingly by non-state actors.

With this in mind, I have also argued for the periodization of modern international society starting with the Reformation era. The Reformation era not only provides a valuable case for understanding how it is possible for myriad polities to coexist claiming authority, but it also was significant historically for international relations. During the 15th and 16th centuries the moral vision of late medieval international society weakened—a phenomenon that we can see via the tradition of the canonical, the concept I use to describe how Church and non-Church actors drew upon the canonical authority to justify their claims. As universities, princes, monasteries, cities were all able to draw on the same universal foundations, the society gradually began to assign more distinct boundaries.

The irony is that the plurality of actors, their respective distinct authority, and boundaries were not new for international society during the Reformations era. These polities could draw upon canonical authority largely because of earlier traditions before Gratian's synthesis of canon law in the 12th century. Local communities conducted their own teaching; the Emperor called Church councils. So functional differentiation was the norm—and it was no threat to the coherence of the society. But after Gratian, when the Church sought to grant more authority to the idea of papal supremacy, other actors had to justify themselves against increasing administrative centralization of the Church. It is this reaction which I argue was central to facilitating the construction of modern boundaries.

In the next chapter, I will discuss the tools necessary to give the historical narrative which I just described.

Chapter 2 Analyzing Late Medieval International Society via the Reformations Era

This chapter develops the idea that an international society can be analyzed as a bounded unit by using analytical concepts to capture and describe the constituent processes of international societies. In order to analyze an international society within the bounds of its own historical context, the concepts used to name its constitutive processes (in other words, what makes the society “hang together”) should be drawn from the society itself. In this case, the constituent processes are societal congresses, hierarchies and the “contract” of the Eucharist.

International society scholars have not systematically addressed *how* to study their central concept. To be fair, most of the scholars I refer to as “international society scholars” would probably be considered scholars of something else—normative justice perhaps (Bellamy 2005), or security and Asian studies (Buzan and Waever 2004), for example. However, there are plenty of scholars who would take interest in the development of the concept itself: recently, there has been more work on developing the concept analytically.²⁷ Hedley Bull’s definition of a society of states sharing practices and customs was enticing conceptually, but not informative regarding questions such as

²⁷ A good starting point to look for these discussions is Barry Buzan’s call to re-convene the English School of International Relations, the group of scholars that have written most about international societies Buzan, B. "The English School: an underexploited resource in IR." *Review of International Studies* 27(3)(2001): 471-488..

which practices? How do we add up the central practices of a society so as to analyze it as a whole (thus facilitating comparison and leading to greater understanding of historical contexts)?

Not surprisingly, because institutions played a central role in Bull's analysis—as well as the general emphasis within IR on institutions (the most prestigious journal of the field being *International Organization*)—much of the recent work on developing the concept has focused on institutional analysis. Two particularly significant works demonstrating this trend are Buzan's *From International to World Society* (Buzan 2004) and Holsti's *Taming the Sovereigns* (Holsti 2004). Both of these works suggest that it would be valuable to name and rank the institutions that hold together a society so as to understand the relationships between institutions in a society. Are some more fundamental or necessary than others? Are some institutions derived from other institutions? For example, if sovereignty is the most fundamental institution of a society, are any other institutions independent of it? Or are they all derived from the one fundamental institution? This is but one, hypothetical and rather extreme example, which I mention as a demonstration of the types of questions that IR scholars are beginning to ask about how institutions make a society what it is.

I argue that the focus of these works (and the similar broader literature) is right; these questions about relationships between institutions—whether hierarchical or otherwise—illustrate the kind of questions that would be helpful to ask of other constitutive processes of international societies. First of all, the literature on institutions of international societies draws attention to how a particular kind of process (institutions) may be constitutive of international societies. Thus, what lessons may this research, and

other research on historical international societies draw from the literature on institutions of international society so as to study how other processes—in this case, tradition—are also constitutive of international societies?

Second, the type of questions that Buzan's and Holsti's works raise about the relationships between institutions of international society are equally as relevant for other processes. In the case of this work, the historical narrative that I give in the next three chapters raise questions about how the various hierarchies within late medieval international society related to one another, and whether or not some hierarchies were derived from other hierarchies. The latter type of questions became especially pronounced in the fifteenth and sixteenth centuries as it became debatable whether church councils or the pope had ultimate authority, and whether princes and theologians had authority (and how much) at church councils.

To take this approach, I assume historical periodization as a method—in other words, before the researcher would begin considering how to analyze international societies as distinct entities, s/he would have already critically assessed why s/he is analyzing a particular international society. Thus, the discussion in the last chapter which considered why late medieval international society is relevant for the study of modern international relations is the backdrop of this chapter.

This chapter proceeds as follows: I begin first with a discussion of how to construct temporal units. This builds on my discussion of Bartolini from the last chapter, using the construction of temporal units as a method of the historical periodization. Its advantage is in setting methodological parameters on the historical context in question. In other words, even if one establishes that the Reformation era is worth closer

consideration in light of contemporary governance questions (for example), there still remains the question of, how do you make a case study of the time period? Deciding the starting point and end point is just the beginning. After this the researcher must consider which processes to analyze and how.

In the case of this research, I am analyzing late medieval international society across time. The long Reformation period provides the marker for the analysis of the society, so in this chapter it is important to establish the parameters of analyzing a society across time. Thus, after revisiting Bartolini, I discuss how to analyze an international society as a “bounded unit.” This is, in itself, a challenge since there is no consensus regarding methodology for the study of/comparison of international societies. To make the case for such a methodology I draw lessons from the literature on institutions of international society, and some of the comparative politics literature on historical institutionalism.

These literatures have two significant contributions to make to this research: 1) they draw an analogy between international society and domestic politics, which facilitates thinking methodologically about “within international societies” questions (e.g. what makes a society a whole); 2) they provide an illustration of how scholars can use one type of constitutive process/shared practices (institutions) to discuss the society as a whole, making it possible to draw analogies relevant for looking at parallel practices—in this case, the tradition of canonical status. Based on these two contributions, I use the domestic analogy to develop the analytical concept of the tradition of canonical status as the lens through which to analyze practices of late medieval international society across the long Reformation era.

After discussing this relevant international society literature, in the second half of this chapter I discuss the processes of societal congresses and hierarchies which were the forms of political organization that mirrored the tradition of canonical status. In the next chapter, I will discuss the historical making of the tradition of canonical status, and how societal congresses, hierarchies and the Eucharist (or more broadly, sacraments) are central in that process, but here I introduce these concepts as methodological markers for the historical analysis to follow.

Constructing temporal units

The last chapter suggested that international society scholars could benefit from intentionally choosing time periods of international societies to study for different purposes—in short, adopting historical periodization, a method which historians have long discussed as a means of critically assessing which time periods to study, and how to go about doing so. The method has, in particular, informed how they give narratives of different time periods and the processes within those periods. I used the case of the Reformation era, a particular time within late medieval international society, to demonstrate how problematizing this era in terms of its starting points has benefits for understanding modern international relations.

I now would like to extend these conclusions about historical periodization into a coherent methodology. If the last chapter focused on the ways which periodization has been present in IR, even while scholars have not discussed it critically—as seen via late medieval international society and the Reformation era—then this one focuses on the

ways in which IR scholars can utilize periodization as a means of constructing case studies of international societies.

Problematizing the starting points and ending points of historical eras, such as the Reformation, is merely the first step towards what Bartolini called constructing “temporal units.” In this section, I will discuss how to apply (some of) Bartolini’s criteria so as to make use of the method of temporal units for this research.

First of all, it is important to note that Bartolini differs from the historical narrative scholars with regards to the meaning of the term “history.” He is not interested in just more consciously addressing events and processes which took place in the past; for him, this is not enough because this is a static approach. Rather, he is interested in historical variation over time, and methods which inform this. However, unlike Bartolini, this research must take both into account because it focuses on a historical context which has not been studied in great depth in IR *and* it does so by considering that historical context over a period of time.

This brings me to two additional requirements for constructing temporal units: first, what markers does the researcher use to designate the units? And what are the temporal starting points and ending points of the units? The two questions inform one another. In the last chapter, I referred to Bartolini’s example of studying the French Parliament. The researcher would have to answer several questions: during what period of time is he or she studying the Parliament (some change should take place over the time period that the researcher is interested in understanding)?; how should the Parliament be broken up into “units,” e.g. shorter time periods? Bartolini gives the example of political regimes vs. legislative periods—which one would choose on the basis of whether it best

informs the change over time that he or she is interested in. Is the researcher interested in the change in political culture or government structure? Then perhaps political regimes are more appropriate.

This example from Bartolini demonstrates how the temporal units should be appropriate to the level of analysis. Political regimes and legislative periods are both processes that take place at the level of the Parliament. In the case of this research then, it is important to construct temporal units that are processes that take place at the level of the society. The temporal units I will discuss are societal congresses and hierarchies, which were societal processes that both built upon the tradition of canonical status.

International societies as bounded units

International societies, unlike many other units of analysis that political scientists study (i.e. nation-states, political parties, cities) are not uncontroversially identifiable. Even though there is consensus regarding Bull's definition of an international society, it still leaves much room for methodological variation among scholars studying international societies. Nation-states have distinct geographical boundaries and are recognized in international law; they usually have governments; and they have populations of citizens and non-citizens. Political parties have members. Cities have boundaries and citizens as well. Granted, there are an endless number of ways to study these units of analysis—but one might argue that, at the very least, scholars interested in nation-states, political parties and cities have many more methodological precedents to draw upon.

International society scholars agree that an IS has members, the members are held together by shared practices, and members have authority (to varying degrees). This leaves a great deal of room for different approaches. While some might be inclined to think that this broad definition of an international society indicates a lack of analytical precision, I would argue that this breadth is appropriate for a concept that we really only know “when we see it.” In other words, the concept is an idea that IR scholars use to discuss, in as clear terms as possible, the presence of shared customs, norms and practices that have some constitutive role in shaping political behavior outside the realm of domestic politics.

This may, at first, seem discouraging, for it could suggest that we cannot rigorously study international societies. This is not the case. It means that we need to be flexible about how we study international societies, since they are both complex and intangible. Rather than thinking of the definition of an international society as too vague, we might instead look at it as inclusive—allowing each scholar to ask, what are the shared practices? How are they constitutive practices? Thus, when adopting a given approach, a study can commit fully to that approach so that it will be as fruitful as possible within its limits.

For this research, I am proposing analyzing international societies as “bounded units”—bounded not in the geographical sense, but in an analytical sense, as distinct political entities with insiders and outsiders. As will become clear, the “bounding” of an international society for analytical purposes may be applied to a range of international societies across time and space. But what is bounded will be specific to the case (international society) in question.

In a work in progress, Donnelly argues that international societies may be analyzed as polities in their own right. He writes the following²⁸: “International relations, in addition to occurring between terminal/peer polities, typically take place within [emphasis in original] an overarching polity,” that is, an international society (4). This emphasis on politics “within” international societies is critical, since it allows us to isolate international societies for analytical purposes. Once we approach understanding international societies as entities in and of themselves, the persistent arguments about institutions constituting international societies become especially relevant.

Donnelly’s argument about politics taking place within international societies becomes the basis for a typology he develops for organizing knowledge about these societies. In his study, he uses this typology for in-depth analysis of one case, ancient Greek international society. However, he argues that some kind of typology is necessary in order to establish *how* to study international societies, whether one is interested in their historical development across time, or whether one is interested in comparing different international societies to one another. Thus, he argues: “a comparative analytical framework must take seriously the possibility of an independent causal significance of constitutional structure. At the very least, even if constitutional structure can in some important sense be explained by other causal forces, it rarely will be entirely reducible to those forces. Once values and institutions become established, they usually exert an independent causal force.”²⁹ This is reminiscent of Nexon’s approach in which the

²⁸ Jack Donnelly, “The Constitutional Structure of Ancient Greek International Society” is a work a progress , available here: <http://mysite.du.edu/~jdonnell/papers>.

²⁹ The quote is from an earlier version of Jack Donnelly’s work in progress, “The Constitutional Structure of International Societies.” It is not in the most recent version of the paper, available on his website. Nevertheless, I give credit for the quote.

combined forces of political mobilization exercised causal force—and Donnelly’s argument complements this approach by suggesting that we need to know what a constitutional structure is made of so as to know what, exactly, is exercising causation.

Thus, his typology of the elements of the constitutional structure of international societies is based on the following broad categories: 1) cultural values; 2) primary institutions; 3) “domestic” legitimacy; 4) “international” legitimacy (Donnelly 2006, 6).³⁰ In Donnelly’s typology, his primary institutions seem to be made by “foundational regulative practices.” Meanwhile, in his discussion of the typology, cultural values and domestic/international legitimacy are separate from the discussion of institutions (Donnelly 2006, 7-8). The separation may be for analytical reasons—to more clearly focus on the role of cultural values, legitimacy and functionality independently.

Donnelly’s typology, subdivided as it is into varied component parts of the constitution of an international society, is especially useful if we are interested in diversifying the means of analyzing international societies. So far, there is much more research on how institutions constitute an international society, compared to other analytical lenses, which certainly can be traced back to Bull’s discussion of institutions of international society: “... states collaborate with one another ... in what may be called the institutions of international society ... By institution we do not necessarily imply an organisation of administrative machinery, but rather a set of habits and practices shaped towards common goals” (Bull 1977, 71). Yet, Donnelly’s typology suggests that

³⁰ This is in the current version of Donnelly’s paper, as is everything else I cite from it, unless noted otherwise.

constitutional structure is diverse in terms of what it includes— values are as relevant as institutions, for example—an approach that is consistent with the idea that the international society concept can be inclusive in terms of what it encompasses.

Second, Donnelly’s notion that an international society can be analyzed as a polity in its own right—what I call a bounded unit of analysis so as to avoid confusion when discussing polities within the polity of an international society—suggests that drawing an analogy between domestic politics and international societies is valuable for this research. Though the domestic analogy can of course be extended too far into the realm of international politics, in the case of international societies, there is a good methodological reason for drawing this parallel: if international societies are distinct wholes, with members who have authority and share common practices, we need a means of discussing them in an organized manner. Comparative politics offers ample resources for “operationalizing” units of analysis.

In particular, I focus on the resources which historical institutionalism offers to the study of international societies as bounded units; HI is uniquely relevant for a couple of reasons. First of all, if we are going to study international societies as distinct units, it is almost a requirement to begin with institutions, since there has been so much work focused on how institutions are the “glue” of international societies. A parallel institutionalist literature from comparative politics is a reasonable starting point. Second, historical institutionalist scholars, with their ideas of path dependency and critical junctures, are explicitly interested in time as a factor defining the nature of institutions. In light of my earlier discussion of identifying temporal units, this is helpful.

Donnelly's typology suggested that there may be a variety of ways of identifying the constitutional structure of international societies; however, in order to make use of varied analytical concepts, we need tools to establish them. Therefore, it is important to note that my objective in discussing institutions of international society is to draw methodological lessons so as to make use of other concepts for the analysis of international societies (including choosing appropriate milestones and time markers). Institutions are a useful analytical concept to draw lessons from because they are understood as constitutive practices, not just of themselves, but also of the international society of which they are a part; because of this, we may draw analogies to other concepts which describe constitutive social practices—such as the tradition of canonical status.

Lessons from institutions of international society

International society scholars are not alone in their understanding of institutions as central habits and practices of a society. Consider Robert Keohane's frequently cited definition of institutions as "persistent and connected sets of formal and informal rules" (Keohane 2001, 2). Krasner's definition of a regime is not dissimilar: "International regimes are defined as principles, norms, rules and decision-making procedures around which actor expectations converge in a given issue-area" (Krasner 1982, 185). There are certain similarities between these two definitions; both Keohane and Krasner point out that actors participate in a set of rules held in common. However, Keohane's definition would lead readers to consider the importance of time with regards to institutions; his use of the word "persistent" seems to assume that, in order to be an institution, the rules must

have a degree of staying power. Krasner, however, is more interested in procedural convergence within a given issue area.

Although the definitions of institutions that Keohane and Krasner give are not that different from international society scholars' understanding of institutions, there is an important difference; the international society scholars' definitions of institutions differ from these other definitions of institutions because they do not analyze institutions outside of the context of international society. One might still ask 'so what,' given that Keohane, Krasner and others who define institutions in a similar manner would not deny that institutions should be placed in a social context. But analyzing 'institutions of international society' matters because it is taking the first step towards operationalizing the concept; just as realists and scholars of comparative politics need means of operationalizing states as their focal units of study, so scholars who are interested in international societies (from the constitution of, and change within and between them) need similar means. But how is that international society scholars go about achieving this, with no obvious resources within the school to do so? I argue that the resources to do so exist within historical institutionalists' works on domestic politics because it is possible to make an analogy between states and international societies.

A first step towards doing so is making note of the similarity between HI scholars' and international society scholars' definitions of institutions. For historical institutionalists, institutions range from "rules of a constitutional order" to "standard operating procedures of a bureaucracy" (e.g. "conventions governing trade union behavior") (Hall and Taylor 1996, 6). In these examples from Hall and Taylor, "rules of a constitutional order" bears the most resemblance to Bull's definition of institutions in the

context of international society. For the purposes of this research, this resemblance is critical because it shows how the two schools share an understanding of how institutions are involved in the constitution of societies.

Historical institutionalists' analyses may be applied outside of domestic contexts because of the ways in which they study those contexts. For example, they are interested in tracing "national trajectories" by means of a state's institutions. In doing so, such scholars take note of "institutional isomorphism"—that is, when new institutions evolve to fit with the shared practices of existing institutions (see, for example, (Thelen 2004)). Such analyses have helped identify the particularities of states' policies, especially when the ordinary realist or rationalist policies do not prevail.³¹ In this brief explanation of historical institutionalists' analyses above, imagine that the word "state" or "national" is replaced with "international society."

To make this analytical leap requires building on a less-emphasized aspect of historical institutionalism: as an approach, it was initially interested in how structures (in general) influence the outcomes of collective behavior. Hall and Taylor discuss how HI evolved out of group theory and structural functionalism, both of which were theories that focused on how structures (of all kinds) influenced collective outcomes. It was only later that the Marxist strand of structural functionalism became particularly influential,

³¹ In Copeland's words, the school lacks clarity as a theory because it is difficult to tell "how one would go about measuring its core independent (causal) variable, 'international society.'" Thus, instead of being a theory with a specific causal logic, the ES is a "vague approach to thinking about and conceptualising world politics" Copeland is especially concerned with the ES's tendency to state hypotheses that are not falsifiable. The school's emphasis on the role of international society in the emergence of cooperation remains a claim which simply cannot be proven or disproven. However, if scholars using the international society concept were able to find a means of identifying when they are discussing international societies, as opposed to other societal actors/units, they would have made significant progress towards theory-building Copeland, D. C. "Review: The Constructivist Challenge to Structural Realism: A Review Essay." *International Security* 25(2)(2000): 187-212..

leading HI scholars to focus on the state (Hall and Taylor 1996, 5-6). Here I certainly do not mean to ignore HI scholars' contribution to understanding states; rather, I mean to emphasize that HI, as a methodology, can be extended to other polities beyond states.

In the long run, the parallel between the structuralism underlying historical institutionalism and the international society concept may be quite fruitful for understanding the similarities (or lack thereof) between domestic and international structures. For this research, the question is, which aspects of constitutional structure are most beneficial for the analysis of late medieval international society?

* * *

The last two sections have focused upon identifying the units of analysis for this study: international societies within different time periods. Neither time nor international societies are obviously "units," but they both have features which a researcher may use to construct them as units for analytical purposes. In the case of international societies, a group of political actors sharing common practices may be separated analytically from actors who do not share those practices. By combining these tools, it is possible to analyze the practices of an international society within a given period of time. The rest of this chapter explains why societal congresses, hierarchy and the sacrament of the Eucharist are central practices of late medieval international society, and specifically the time period of the Reformations.

Societal congresses as temporal units in late medieval international society

Some consensus exists that peace settlements are useful markers of critical turning points and/or normative innovation in international society. Several studies attest

to this consensus: Clark's *Legitimacy in International Society*; Osiander's *The States System of Europe* (Osiander 1984); and although it more popular history than IR, Bobbitt's *The Shield of Achilles* (Bobbitt 2002). All of these studies are historical narratives of international society constructed via accounts of peace settlements—or what I call “societal congresses.”³²

Because of differences between modern and medieval international societies, I use the term “societal congresses” as an inclusive term for “peace settlements” within the Reformation period. “Societal congresses” include both Church councils and other meetings which included polities at the society level. However, there were important differences between the types of congresses. General Church councils, for example, were automatically canonical because they were called under the auspices of the papacy/college of bishops. But any other meeting that was not a Church council had to bring canon law into force in order to be legitimate (Lesaffer 2004, 22-24). This meant that canon law was setting the standard for medieval treaty practice. It also meant that other polities had to do extra work in order for their decisions to be considered legitimate in international society—a reflection certainly of how important canon law and papal supremacy had become in a short time.

General councils, or ecumenical councils, were those councils that encompassed the entirety of the Christian community. They were understood to be universal both geographically and cosmically—in other words, they encompassed the entirety of the

³² However, it is easier to use peace settlements as markers of temporal units after Westphalia because of the common treaty practices which were acknowledged after this time. Using peace settlements as markers of temporal units requires more attention to defining the units since a variety of societal governance procedures were used and they were used under the auspices of a different legal framework, canon law.

Christian community spatially (or at least they intended to) as well as those authorities whose status meant they could stand in for the Church, or the body of Christ (again, we return to apostolicity and hierarchy). However, what was required in order to claim ecumenical status was becoming a matter of controversy. According to the geographical aspect of the meaning of ecumenical, all lands that had encountered Christianity must be included (Bellito 2002, 8). By this definition, an orthodox view would insist that no council had been ecumenical since the Great Eastern Schism because the Church had been irrevocably divided. Yet, if one saw members of the Eastern Church as non-members of the Christian community, the term ecumenical could still apply.

In the Reformation era, controversy surrounding the status of Church councils increased via the debates between conciliarists and papalists, which I will discuss in more detail in the next chapter. For now what matters is that the controversy enmeshed even in considering the status of Church councils provides greater support for examining societal congresses as a group. In other words, even though the status of canon law had increased dramatically, the controversy reflected that society had not forgotten that papal authority was not a given. Further, it is clear that the canonical still had authority within international society; yet it is also clear that governance decisions were made in a variety of settings, not just Church councils.

In the context of non-Church meetings, every act associated with a treaty was filtered through canon law: the rules for how treaties would be framed and recognized (or the structure of treaties), how the negotiations at peace settlements would be conducted (i.e. the subject matter of negotiations, who could be a party to the treaty, and what these parties would gain or lose from the treaty) and finally, how canon law would govern the

outcomes of the settlement (Lesaffer 2004). In other words, even when canon law was not in force, it was recognized as authoritative, so other polities drew upon the tradition associated with canon law in order to claim their own statuses.

For example, in considering the rules for how treaties were framed and recognized, the structure of late medieval treaties is noteworthy because certain shared characteristics reflected the society's aim to maintain canonical regularity. First, references in prefaces to the *res publica christiana* were common; Lesaffer argues that such references demonstrated that princes were responsible to the whole of Christianity (Lesaffer 2004, 32-33). And this specificity regarding princes as those responsible to the whole of Christianity is important; princes were the officeholders, and thus agreed to treaties in their own names. In other words, "sovereign princes did not act as a representative institution of an abstract political body ... Only indirectly, through their internal power and authority, did they oblige their subjects to the treaty" (Lesaffer 2004, 17).

This distinction regarding princes is important because it suggests that they were making international societal decisions in treaties and congresses; they were not making *domestic* decisions. There was, as yet, no domestic realm tied to a prince or anyone else. Rather, when princes (and any other parties to a council or congress) participated in decision-making, they could potentially have influence over a much broader space than just a local jurisdiction. If we think in more familiar modern terms, contemporary leaders have both foreign influence and sovereignty over citizens in a country. Medieval princes had broader influence because of their responsibility to help maintain the *congregatio*

fidelium; thus, while local jurisdictions could not be forced to follow a prince or a bishop, if the top of the hierarchies maintained order, then the society remained coherent.

Consider, for example, that since the late Middle Ages, most treaties were agreed to by oath, and most were accompanied by some kind of religious ceremony (e.g. touching the Gospels). The act of agreeing by oath brought canon law into force. This is perhaps unsurprising because the Church's main rites (sacraments) could also be understood as contracts agreed to by oath. This is reinforced by the fact that the Church often instructed people to receive the Eucharist more frequently; and they used public banning rites (to excommunicate individuals) and public penitential rites (in order to readmit individuals to the Church) (Karant-Nunn 2007, 213-215) in order to emphasize the public, corporate character of the faith. I will discuss how sacraments were public, contractual acts in the second half of this chapter.

Additionally, papal sanctifying of the treaty was a formal part of the process. Following the agreement to a treaty, the parties were subject to ecclesiastical jurisdiction (Lesaffer 2004, 22-24). This reiteration of religious ceremonies when treaties were negotiated reinforced the Christian identity of the parties. Further, the fact that agreeing to treaties by oath brought canon law into force also re-established the importance of "the Word" for the *res publica Christiana*.³³

I would argue that all these customs associated with treaty practices were at least partly instrumental means to ensure that non-Church meetings produced agreements

³³ The use of oaths in the process described above stands in stark contrast to modern treaty practice. Under canon law, written ratification was sometimes used, but usually more for practical reasons—to remember what was agreed to, not to bind the parties to their word. As Part II will discuss, written ratification began to replace oaths because it was what remained after canon law lost its universality. Lesaffer, R., ed., Ed. *Peace Treaties and International Law in European History: From the Late Middle Ages to World War One*. Cambridge, Cambridge University Press, 2004..

(treaties) that were consistent with the tradition of the predominant normative system of the time, canon law. Oaths, papal sanctifying and princes agreeing to treaties in their own names all granted authority to the society of believers, the *congregatio fidelium*. Each of these acts served to remind those participating in a treaty that they were making contracts under the auspices of the faith—or apostolic authority.

And this is precisely what made canonical polities possible: canon law was extended beyond the ecclesiastical realm and into the realms of princes, cities, the Empire, and universities. The irony is that these other actors could *only* have authority on the basis of the canonical. However, as soon as many actors could make use of the tradition of canonical authority, it became much more difficult to explain and justify the Church's (unique) apostolic authority, which underlay canon law. And this in turn meant that hierarchies, and not hierarchy, was the reality of medieval international society.

Hierarchies of Medieval International Society

In the next chapter, I discuss how hierarchy was something that became more established over time; it was particularly noticeable from the eighth century onwards, when the idea of *imperium* became much more prevalent in the two major events of that time, the Iconoclastic Controversy and the Investiture Conflict. Hierarchy also became much more predominant from Gratian onwards with more arguments for papal supremacy. However, we could look back to even earlier examples within the historical narrative to see how hierarchy was gradually obtaining a central place within polities of international society over time; for example, my discussion of early Church offices (ca. 2nd and 3rd centuries) in small communities invited the question of how those

communities would be organized. In any form of organization, there was almost always some degree of hierarchy, even when the emphasis was on governance by the body as a whole.

Further, Constantine's role in the fourth century in calling the council, which was later recognized as the first ecumenical Council, emphasized the importance of one central leader holding together a body of the society. His call drew together the bishops and provided the venue in which the Church worked out its basic rules of membership: the Creed. His role also demonstrated the importance of hierarchy associated with the Holy Roman Empire within this early period.

The association of the idea of hierarchy with offices of the Church, as well as with central, or perhaps better stated, over-arching leadership of the international society, did not go unnoticed by society's main actors in the long Reformations era. As I will discuss further here, it is possible to draw a parallel between the early Church offices and the three main hierarchies of medieval international society. These were: *sacerdotium*, *imperium* and *magisterium* (Van Hove 1910; Burns 1988). By dividing hierarchy this way, there was therefore a regulatory order vested in and deriving from the power to minister the sacraments, rule in temporal matters and to teach (and preach).³⁴ The names of these three hierarchies' authorities further reinforced their universal claims: the *congregatio fidelium* or *res publica Christiana* for the Church and sometimes the Empire; while *universitas* or *collegium*, used in the context of the university, also created

³⁴ Note that teaching and preaching (the Word) were subsumed in the same hierarchical order. According to the conventional wisdom teaching had to arise out of preaching, such that those who preached also taught; however this was also a source of controversy Minnich, N. H. *Councils of the Catholic Reformation*. Surrey, Ashgate, 2008..

problems for authority claims, since they all referred to a universal constituency (Kibre 1948; Kibre 1962).

However, just as in that early period, which I discuss in the next chapter, it was unclear how distinctions between the offices were drawn in terms of roles and responsibilities, during the Reformations period, the association of each hierarchy with specific polities was also contentious. Note, for example, that teaching and preaching (the Word) were subsumed in the same hierarchical order. According to the conventional wisdom teaching had to arise out of preaching, such that those who preached also taught—however this was also a source of controversy. During the Reformations period, theologians were acquiring more of an authoritative role in influencing matters of polity, which raised questions regarding how the authority to interpret Scriptures was shared between them and bishops. At the Council of Constance, which I will discuss later, one conciliarist made the memorable argument that bishops, who were not required to obtain as much theological education as scholars, were nothing more than “mitred asses” (Minnich 2008, 197).

Given these controversies surrounding each hierarchy’s authority, what each meant, and which actors had the authority to draw upon them, how did multiple hierarchies coexist? Historians of the medieval era often 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). Did these three social structures well parallel the hierarchies of *sacerdotium*, *imperium* and *magisterium*?

In one sense, the obvious answer is no, because these hierarchies were theological ideals. Nevertheless, the tradition of the canonical had been built on the basis of theological ideals; hence, how these three social structures coexisted with one another, and compared to the ideals of the three hierarchies did matter in medieval international society. In the section which follows, I will first explain a bit more about the theological basis of these three hierarchies, and the questions that were arising as the three cross cut one another in the reformations era. I will then discuss each social structure in turn, paying particular attention to how they coexisted with the others during the period which I will be analyzing in the fourth and fifth chapters, the period from Constance to Augsburg.

Hierarchies: order and jurisdiction

To understand the three hierarchies mentioned above, it is important to understand that hierarchy was more than just a functional organizing principle of medieval international society. Instead, it represented a set of deeply embedded expectations regarding life within the *congregatio fidelium*, translated as the ‘congregation of the faithful.’ From the sixth century, the term hierarchy was used to refer to the “totality of ruling powers in the Church,” specifically the “care and control of holy or sacred things.”

So the Catholic Encyclopedia states:

The ‘Hierarcha’ ... is he who has actual care of these things; who indeed, both obeys and commands, but does not obey those he commands. There is ... a necessary gradation among hierarchs; and this gradation, which exists even among the angels, i.e. in the heavenly hierarchy (on which the ecclesiastical hierarchy is modeled), must *a fortiori* be

found in human assembly subject to sin, and in which this gradation works for peace and harmony (Van Hove 1910).

Thus, hierarchy— and the hierarchs who stood within the order— consisted of the totality of the community, but it was also divided into a variety of levels, with different roles and capacities internal to the order.

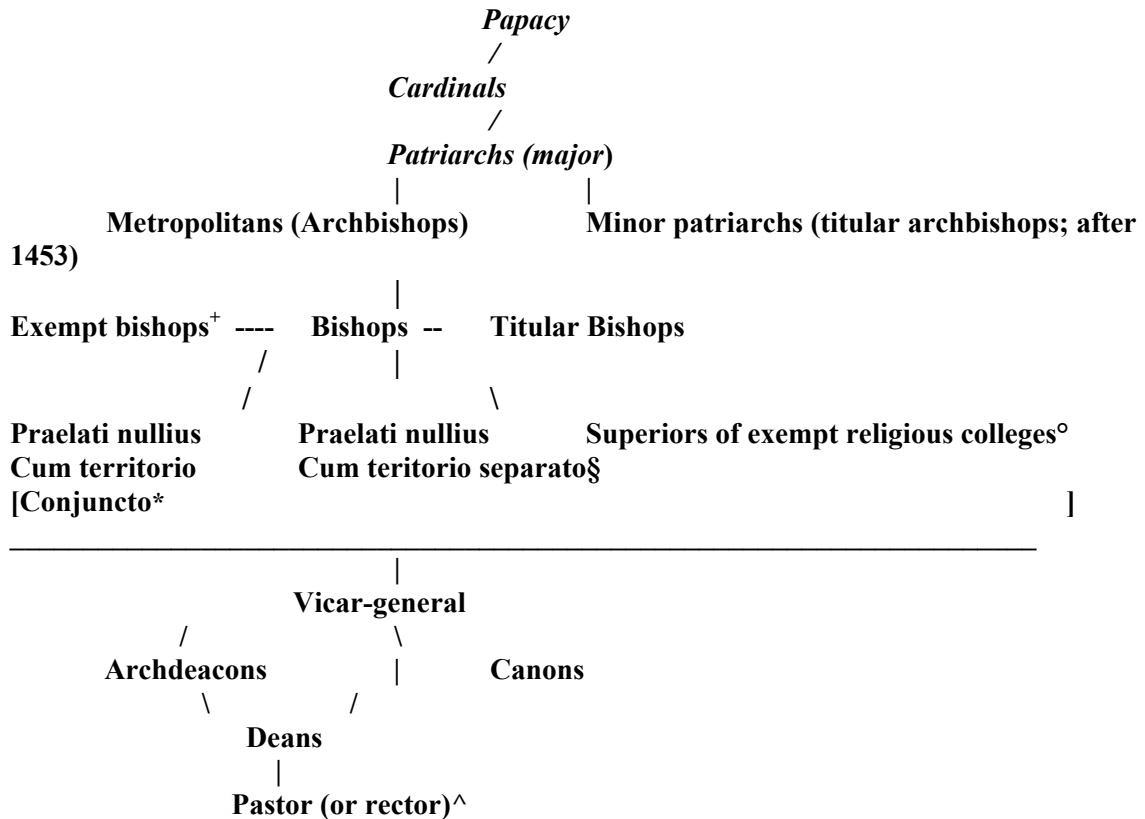
To get at these levels, a first step is to divide hierarchy into order and jurisdiction. The distinction between the two loosely parallels the two means of achieving grace, the sacraments and good works, respectively. “The hierarchy of order exercises its power over the Real Body of Christ in the Eucharist; that of jurisdiction over his Mystical Body, the Church.” Put differently, only those belonging to the hierarchy of order were permitted to administer the sacraments, while the majority of the faithful should follow a path of good works through the hierarchy of jurisdiction (Van Hove 1910). In other words, the majority of the faithful were obliged follow the rules and regulations set by the hierarchical structures they belonged to— parish Churches, cities, guilds, etc.

However, there is another way to understand the prior statement’s distinction between the hierarchy of order and jurisdiction, and that is to consider the difference between the “real” body and the “mystical” body. The term “real” in this context refers to the real “presence” of Christ in the elements of the Eucharist (Broderick 1944). Both the terms “real” and “presence” were the subjects of extensive controversy during the historical period covered here, and I will deal with these arguments appropriately in a later section. Here suffice to say that the orthodox definition of “real presence” means that a *complete* transformation occurs in the consecration of the two elements, and this is referred to by the Roman Church as the doctrine of transubstantiation (Leclercq 1910).

The term mystical, or Mystical Body, as above, refers to the Church universal (what we here call the *congregatio fidelium*). But the quotation above probably intends to extend this idea further than an abstract notion of a Church universal. The mystical body of Christ is defined by Broderick as, “The truth of faith, embracing the Scriptural teaching of Christ as the Head and members of the Church as the ‘body’ of Christ” (Broderick 1944, 408). He goes on to discuss St. Paul’s arguments that Christ as the Head of the Church was and is “the cause of the supernatural growth of all the members” (Broderick 1944, 408).

Why do these statements matter politically? First note the hierarchy inherent in the statement itself. Priority is given to the real body of Christ—embodied in the authority to administer the sacraments(literally seen as Christ’s physical presence) to the society. Only through the Eucharist then does the Church—its hierarchical structure and members— have authority in the world: jurisdiction.

Who belonged to the hierarchy of order and who to the hierarchy of jurisdiction then? The hierarchy of order consisted of only the historic episcopate, the priesthood and the diaconate. These are argued to be of divine origin, granting them the privileges associated with the hierarchy of order. In contrast, those within the hierarchy of jurisdiction beyond the episcopate and the papacy, are of “ecclesiastical institution.” I have attempted to capture the hierarchies of order and jurisdiction pictorially below. The italics indicate the hierarchy of order, while the rest are part of the hierarchy of jurisdiction:



⁺They were directly accountable to the papacy.

^{*}They had quasi-authority over a diocese.

[§]They had episcopal authority over a territory not belonging to any diocese.

[°]They had authority over the personnel of their own communities.

[^]Rectors were appointed in non-canonical parishes.

It is important to note that those belonging to the hierarchy of order *also* necessarily had powers of jurisdiction, but not vice versa. Rights of jurisdiction included legislative power (the right to construct and sanction laws), judicial power (the right to judge how the faithful observed laws), coercive power (the right to enforce and punish), and administrative power (the right to provide for the proper celebration of worship) (Van Hove 1910).

Notice, however, that this diagram only contains Church offices— and so in the orthodox account of hierarchies in international society, all authorities and hierarchical

organization derived from its status associated with the true body of Christ, a story not unlike the centrality of apostolic witness in the last chapter.

But note also that in this account there would be no talk of hierarchies or authorities. Hierarchy was a universal principle, and the idea that polities beyond those of ecclesiastical institution would claim an association with the idea of hierarchy was unacceptable in the orthodox view. Yet, this is precisely what myriad ecclesiastical polities did in the medieval international society. They did not take it for granted that the Church's spiritual authority also gave them legal and political authority in all instances. The next three subsections discuss the three social structures and how they were claiming hierarchical authority in the long Reformations era.

The Church

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); finally, another version emphasizes the importance of general councils as the representative body of the *congregatio fidelium*. In the long Reformations era, the relative importance of each of these versions of the Church as an actor was debated.

At Constance, questions about hierarchical authority arose in the context of the need to allow it a new legitimate Pope— while they also face the conundrum that only the Council could do this, an act that required defining papal authority. Emphasizing this conundrum, conventional accounts only recognize Constance as an ecumenical Council

after the new Pope's election. Yet, my narrative in the next chapter will explain how the Council had to rely on the authority of a range of polities and creative governance strategies in order to achieve a conservative outcome: a new pope.

By the Peace of Augsburg, the concerns that were expressed in terms of conciliarism and papalism (authority associated with the council or the papacy, respectively) 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 that 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 (Wieruszowski 1966, 18-19).

Still, even after Augsburg, the Church more than any other actor had responsibilities and rights that cut across all areas 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.

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" (Gewirth 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. 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 1999, 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 1999, 59). Unlike the Church, the Empire 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 (Moeller 1972). 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 (Tüchle 1971); 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 chapter 5) 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.

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 (Spruyt 1994) suggests that, at least in some cases, estates that 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) (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.

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 that had agreed to the Augsburg Confession, which was in turn written by theologians (mainly Luther and Melanchthon 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 that facilitated epistemic communities at important councils and diets. Universities were legitimate political actors because many students and masters obtained their rights via their status as members of the university. For example, at the University of Bologna, nations were set up so as to give foreigners to organize themselves based on their interests.

Simultaneously, 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, for to exclude them would have meant excluding large segments of the international society's population. It therefore 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 1994, 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 (Kibre 1948, 49; Wieruszowski 1966).

At the University of Paris, Peter Abelard influenced the fomentation of dialectical pedagogy, the tradition which John Hus belonged to. Sounding quite modern, he was once quoted saying: “Through doubting we come to inquiry, and through inquiry we perceive truth” (Wieruszowski 1966, 28). 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 (Wieruszowski 1966, 29).

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 chapter³⁵ 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 (Wieruszowski 1966, 37, 39).

³⁵ 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 Wieruszowski, H. *The Medieval University*. Princeton, Van Nostrand, 1966..

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 (Daly 1961, 30). Wieruszowski, in discussing the University's Charter, quotes the following statement: "There is to be no student without a regular master" (Daly 1961, 31). Daly also describes a Parisian nation as a corporation of masters working within the same rules and procedures (Daly 1961, 30). Some scholars contrast the Paris model with the Bologna model of nations, casting them as archetypes of medieval organization; this is a theme I will return to in chapter four, in the context of the Council of Constance, which chose to model itself on the University of Paris nations rather than Bologna nations.

Yet, regardless of how the nations were organized, they were the expression of 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 1962, 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 Eucharist as contract in international society

In the last section on hierarchies within medieval international society, it became apparent that there was a relationship between the administration of the Eucharist and the hierarchical structures that made up the society at the time. Thus, in this section, in keeping with my focus on society and its key practices, I gave a particular take on the Eucharist: that participation in it was analogous to modern citizens' participation in the social contract. It is important to note that this does not capture everything about the Eucharist even within the era discussed here. During the Reformations era, there was a great deal of controversy over this because reformers were attributing more to spiritual experience in worship as opposed to merely following Church customs. However, I would argue that one reason that this new spiritual emphasis was contentious was because it took away the contractual authority of the Eucharist as the binding practice of international society.

In the long Reformations era, discussing the Eucharist and discussing the Church became two sides of the same coin. For example, the term *corpus Christi mysticum* was not used as the name for the Church before the 12th century. But in response to those “... who sought to spiritualise and mystify the sacraments, it became necessary to emphasize the real presence of Christ in the Eucharist. The sacraments now became known as the *corpus Christi verum*, whilst the expression *corpus mysticum* was transferred after about 1150 to the *Ecclesia* itself” (Wilks 1964, 23).

Specifying that the sacrament was the true body of Christ made it even more imperative for members of international society to partake of the Eucharist regularly, for to not partake of it would be to deny the incarnation of Christ's body in the world and

therefore his headship of the Church. Further, calling the sacrament the true body also granted greater authority to those administering it, serving to separate the clergy from the laity in the Reformation era.

The Latin word “sacramentum” means an oath or a guarantee, and it would have been used in both civil and military contexts (1989; Traupman 1995). The Oxford English Dictionary suggests that, in the most etymological sense, a sacrament would be a “result of consecration” and/or “a means of consecrating, dedicating, or securing by a religious sanction.” However, the OED also notes that from the 3rd century, the word “sacramentum” was the accepted translation of the Greek word for mystery (1989). The Latin word, therefore, was meant to capture both the early Christian understanding of the word, while also adding the Roman customs of formalizing religious rites.

So how was participation in the Eucharist making an oath or a guarantee? The Eucharist was the sacrament that the faithful were required to participate in regularly in order to remind themselves of their baptismal vows. Even today, taking communion regularly is a requirement within liturgical Churches in order to maintain good standing in the Church. Additionally, recall how in the prior section on societal congresses, the means of bringing a treaty into force was by means of an oath. And in medieval international society, making an oath was a primary means of denoting the importance of an act for society.

We may also draw a parallel between partaking of the sacrament and modern citizens participation in the social contract. Just as modern individuals implicitly agree to be members of political society when they are under the age when they are recognized as citizens (e.g. children who cannot yet vote), so members of the faithful in medieval

international society implicitly agreed to that society's rules by participation in its key practices, whether they actively chose those practices were not.

In the 15th century, the distinction between the *corpus Christi verum* and the *corpus Christi mysticum*, which helps us understand the Eucharist as a contract here, also served to further divide the authority of polities within international society. Ironically, while the orthodox Church made efforts to argue that the mystical body of Christ was expressed as the Church in the world because its members were drawn together by this shared practice of the sacrament, this opened the door to other interpretations of how society could be organized. This opening to different ideas regarding societal organization is well captured by the theologian Jean Gerson, who was present at the Council of Constance: “the mystical body of the Church, perfectly established by Christ, has, no less than any civil, mystical, or truly natural body, the right and power to procure its own union” (Oakley 1984, 118).

During the period between the Council of Constance and the Peace of Augsburg, society's key actors argued over different theologies of the Eucharist, how it should administered, and what this implies about how society should be organized. It is this which I call the Eucharistic controversy, which is a piece of the historical narrative in the fourth and fifth chapters that follow.

Conclusion

This chapter has discussed the analytical building blocks of the narrative of the long Reformation that I will give in chapters four and five. With the backdrop of historical periodization of late medieval international society via the Reformations, I

began by first discussing how to use Bartolini's approach of "constructing temporal units." This raised the question of: with the particular concept of international societies, how are they (societies) to be analyzed via their constituent processes? Because international society scholars have not tended to focus on this methodological question, I examined how they have investigated institutions of international society, using this literature as a source of lessons for using a different analytical concept, the tradition of canonical status.

In the next chapter the concept of the tradition of canonical status is the focal lens. I narrate historically how it became central by the twelfth century with Gratian's *Decretum*, focusing in particular on those practices that illuminate how polities, both Church and non-Church (or local and ecclesial), were reliant upon the idea of the canonical and used it to bolster their authorities—expressed most clearly via societal congresses, hierarchical orders and the sacraments. Each of these three organizing practices became pertinent for the long Reformations via a historical process starting from long before there was an official system of canon law.

When a twelfth century canon lawyer looked back upon on the previous thousand years, he would read the historical evolution of societal practices with an eye towards the necessary arrival of canon law as the binding normative system of the time—in a similar manner to how international relations scholars have looked back to Westphalia and legitimized the nation-state. Yet, there is a significant difference between international relations' unilinear readings of history and canon lawyers': canon lawyers' readings had an underlying eschatology to them. Arguably, IR scholars may be engaging in their unilinear readings "unconsciously"—or, even if they are aware of what they are doing, it

is difficult to pin down the underlying assumption(s) behind such readings. This, again, highlights an important distinction between late medieval international society and modern international society; modern international society lacks the unifying moral vision that was characteristic of late medieval international society.

Yet, even as canon law played its unifying, normative role in international society, it was not the only viable system of ideas that was derived from the period before Gratian—and the political actors of late medieval international society knew it. Canon law may have justified papal supremacy after the twelfth century, but society had known centuries of decision-making in synods under the auspices of more inclusive authority before. Further, while hierarchies had always been important, hierarchies were autonomous in their own realms. The irony is that as the fifteenth and sixteenth centuries assigned more rules to define jurisdictions separately from one another, rather than reinforcing an old norm, the societal congresses of these centuries actually introduced something newer. These stronger definitions of boundaries and jurisdictions were starting to be new because they had to define themselves against the greater centralization of the Roman Church.

Considered this way, the non-Church actors' organizational decisions in the fifteenth and sixteenth centuries were only new insofar as they had to take on a more contained expression in response to Roman reforms. The Roman Church decreed that papal authority was a requirement to call a council in the thirteenth century; this was new. The Roman Church also began requiring much more procedure in episcopal elections, and in the regulation of property. For non-Church actors to act with authority as they

always had, they had to argue to against these reforms. These are just examples of the tone of the narrative I give in the next part of this work.

Chapter 3 Apostolicity, Synodality and Hierarchy: The Tradition of Canonical Status

This chapter provides a narrative of how the tradition of canon law became a vehicle through which polities claimed authority within the Reformation era. I use the “tradition of the canonical” as an analytical term to describe the historical process whereby actors understood their authority in the context of an international society which was bound together by ideas of the canonical. Referring to a “tradition” acknowledges that polities were not, in these early stages, drawing upon canon law formally, but they were drawing upon the normative essence of it, which was an evolving, historical, and living process.

The word “canon” is derived from Greek and meant a “stalk” or a “reed” that was used for measuring (Coogan 2001, 453). According to ancient Greek usage, the meaning of the word was extended beyond material characteristics—a straight rod or line—to a more ideal meaning: “fixity,” a “norm” or a “criterion.” Hence, the Latin translation was “regula” (Schroeder 1937). Thus, the word was used in a variety of contexts.

Grammarians used a related word to describe the general rules and principles of rhetoric, while in sculpture the word referred to “rules and models of exquisite proportion and finish” (Schroeder 1937, 1).

The term canonical usually referred to things, e.g. canonical books and canonical lists. It did not specifically refer to canonical statuses associated with polities as I discuss

in the context of this work. However, according to medieval understanding, these polities and their authorities were just as “written” as a canonical decree at a church council. This was because polities – and for that matter, every action they participated in—could arguably be manifestations of the Incarnation, also referred to as the Incarnate Word or Logos. As the Catholic Encyclopedia explains it: “The Logos ... is not the impersonal power that sustains the world, nor the law that regulates it ...the Word ... is the Word of God ... which from all eternity was in God and was God, took flesh and dwelt among men” (Lebreton 1910).

It was the last phrase, that the “Word ... took flesh and dwelt among men” that preoccupied the participants of the early church councils; if this was the case, then *in whom* could the Incarnate Word be seen, how was their authority to be recognized, and what should their authority be? I will discuss these questions in the later section of this chapter, ‘Incarnational Polities.’ What is important here is that the idea of the literal written word was extended into society by means of the Incarnation. It is this analogy that makes it possible to parallel the canonization process with the tradition of the canonical. In particular, there are three central features of the canonization process that are relevant for an understanding of polity within late medieval international society:

First, I argue that canonical status associated with polities necessarily evolved with tradition just as the canonization of Scriptural texts was a gradual historical process (Coogan 2001, 454)—and this historical evolution is continual. Canon law itself was a legal system designed to change in relation to society (within the bounds of the scriptural authority that it was initially founded upon) (Ullman 1975, 124-125). This also parallels the way church historians understand reformation as a central feature of church polity (cf

MacCulloch 2003, xvii). These features of the canonical and polities within the Reformations are not unlike the modern idea of precedent in law, and the expectation that institutions, by nature, are always reforming themselves.

Second, and related to this, just as historians and canonists argue that denoting a written source canonical does not add any new status to a work, so the same applies to actors drawing upon canonical authority. To claim canonical status is necessarily alluding to a tradition of quality and recognizing it as such (Coogan 2001). In relation to the Reformations, this is important because it suggests that when polities argued for canonical status, they were not trying to claim something new, but rather to maintain their statuses in international society by reference to an authoritative tradition.

Finally, canonical status in the Reformations period also mirrors the plurality of the canonization process. As Coogan writes,

“[canonization created] a body of works richly textured by a wide variety of genres, ideologies and theologies. This is ... a typical ancient near Eastern process: Instead of creating a small, highly consistent text ... those responsible for the process made efforts to include many of the viewpoints in ancient Israel, incorporating differing and even contradictory traditions into this single, and singular, book” (Coogan 2001, 456).

This is a critical parallel to draw because it suggests that the canonical has room within it for myriad polities, further suggesting that multiple polities claiming authority was nothing more than a consistent historic feature of medieval international society (Ullman 1975), rather than an oddity of the Reformation—and an oddity which led to “competition” between polities, such that the state “won” (Spruyt 1994).

By referring to the tradition of the canonical, I argue that in both ecclesial and non-ecclesial actors were drawing upon a long tradition of apostolic authority and

synodal and hierarchical organization³⁶ in order to maintain their own statuses in international society; this is in contrast to the traditional account, which suggests that Church authority was the norm and imperial and local involvement in spiritual matters was unusual.³⁷ On the contrary, international society was nothing if not a mix between local, ecclesial and imperial polities.

Further, I contend that *only* by drawing upon the normative foundations of canon law could non-Church actors hope to be considered legitimate in international society. Though these claims were not formal in a positive legal sense, polities were nonetheless constrained by the framework of canon law. As I indicated in the introduction, this implies a distinct read of the Reformation—one that considers it ultimately a rather conservative era in which actors made every effort to maintain their particular statuses.

This chapter discusses the normative foundations in order to understand the reading of the Reformation described above. Here my objective is to narrate the political traditions which made it possible for polities to draw upon the tradition of the canonical by the time of the Reformations era. This narrative runs through the earliest period of Roman and Church coexistence to the recognition of Gratian's *Decretum* as the beginning of the modern field of canon law, which has also been referred to as the

³⁶ Canonical status is *not* a historical term, nor is it a term used by historians; rather, it is a “family resemblance” concept whereby a number of varied justifications for authority shared a common thread Donnelly, J. *Realism and International Relations*. Cambridge, Cambridge University Press, 2000.. Understood differently, canonical status describes a tradition of actions taken by actors from the beginning of canon law onwards. Further, adopting this type of analytical lens is not unheard of among historians of this era. See Wood's tome on the proprietary church system, in which she discusses “overlapping clusters of ideas” associated with property, by which she refers to both property for us and for them Wood, S. *The Proprietary Church in the Medieval West*. Oxford, Oxford University Press, 2006..

³⁷ The well-known scholar of medieval political theory, Walter Ullman, states: “... the more [the] Christian faith became the leaven of society ... the more conspicuous the part which secular Rulers played in ecclesiastical matters” Ullman, W. *Law and Politics in the Middle Ages: An Introduction to the Sources of Medieval Political Ideas*. Ithaca, Cornell University Press, 1975..

“twelfth-century renaissance” (Burns 1988). Before Gratian, we cannot speak of canon law as the legal grounding for the normative framework of international society, and thus the statuses of actors could not be founded upon it (either formally or informally).

However, the formation of canon law was a historical process constituted by the cross-cutting traditions of apostolicity, synodality and hierarchy. These traditions, in combination, allowed canon law to obtain the authority it did in the 12th century. Further, the traditions that built canon law— again, apostolicity, synodality and hierarchy— continued to have authority in their own right. It is this feature of these traditions which I call “canonical status.” Thus, the period before Gratian was foundational to the building up of the canonical tradition, which I argue was constituted by the customs of synodality, the tendency to govern matters of polity in a communal manner, and these customs gradually became expressed through increasingly formal hierarchies. And synodality and hierarchy remained the two threads which polities in the Reformations era drew upon in order to maintain an association with the canonical.

During the Reformations era, apostolic authority and the forms of synodality and hierarchy were the subject of much debate. Although these debates have received much attention from historians and political theorists already, considering these ideas in light of the tradition of the canonical contributes to understanding the period politically. In other words, by analyzing the actors of the Reformations period as canonical polities, it becomes apparent that they were all drawing upon a shared tradition of societal authority. The Reformations period therefore is freed up from being a contest between state and Church— for the “state,” if it existed at all, had no legal system of its own to stand on, and the Church (almost literally) stood upon the infrastructure of other polities to achieve

its purpose. In other words, I am arguing that there were not separate traditions contending with one another as polities sought to share authority in the Reformations era; rather, polities drew upon the same universal (e.g. canonical status) foundations to establish their legitimacy in international society.

This chapter ends with Gratian and the introduction of canon law; what was new in the twelfth century was the growing strength of the papacy and the Church's tendency to demarcate spiritual from temporal authority. This demarcation contributed to the Great Western Schism of the Reformations era; it could be called what a historical institutionalist would term a "critical juncture" (Thelen 2004, 184-185). However, as canon law emerged as a distinct field in the twelfth century, it also reflected the fact that authority had traditionally been both dispersed and multifaceted. Norms were made locally by princes, bishops or cities just as much as they were made in Church councils under the auspices of the emperor and/or the pope.

Thus, the first section of the historical narrative is called 'Making Synodality,' and it gives an account of how apostolicity influenced the form of early Church polity. Apostolicity, being built on community authority, required synodality as an approach to govern society. Meanwhile, synodality, or governing in local councils, in turn, relied upon hierarchy procedurally because calling councils raised questions regarding who had the authority to be present at councils, and what their roles should be in the context of these councils. Therefore, early canonical writings were concerned with the character of appropriate societal offices (governing roles); these early ideas gradually influenced the forms of medieval hierarchies. Another way of saying this is the hierarchies of medieval international society became *infused* with the apostolic tradition in the making of canon

law. Because “infused” implies that apostolicity was incorporated into the very fabric of canon law (which held society together), debate surrounding the nature of apostolicity meant that differences in understanding authority by polities would be particularly contentious.

My discussion begins with an explication of the concept of the canonical in the early Church, particularly focusing on how ideas of apostolicity informed the early practice of Church governance in synods; this builds on my discussion in the last chapter, by historically demonstrating the inseparable association of apostolicity and hierarchy embedded within it. Apostolicity is prior to hierarchy and synodality because an apostle is by definition a witness to the risen Christ. Further, this witnessing is a communal experience— both in the way the witnessing is experienced, as well as how it is only recognized as legitimate by a community. It was this experience that granted apostles authority in the world. In the historical narrative here, I explain how apostolic authority eventually became expressed via synodality, and then more formal hierarchies, since the synodal form manifested the centrality of the community.

I argue that apostolic status became essential to understanding the foundations of authority; nonetheless, it is noticeable that apostolic status did not necessarily help early Church polities and the Empire understand what *exactly* that authority translated into. Apostolic status meant one had the authority to testify on behalf of Christ: but did this mean that one had the authority to teach, to govern, to decide who could govern, etc.?

Church councils— or “synodality,” the tendency to govern by means of councils—arose in the context of such murky waters. And the first of the Church’s general councils, or those which included the entirety of the Church at the time, was

called by the Emperor Constantine. This raises some questions about whether apostolic status belongs entirely to the (later) ecclesiastical realm. If Constantine, as the Roman emperor, had authority to call the college of bishops to him, then so also might princes in late medieval international society draw upon this precedent of imperial apostolic authority.

The second section, “Incarnational Politics,” gives an account of how these questions regarding the nature of authority were taken up at the first four general councils. These councils were focused on the theologies of Christ’s nature (divine and human) and the relationship between the three persons of the Trinity. While there is much theology embedded in these discussions which had little to do with politics as we know it, the understandings of each of these doctrines had far-reaching political implications at the time.

Two features are especially relevant for this discussion: first, the medieval concept of offices relies on understanding the Incarnation, since different interpretations of the Incarnation in the world mean different ideas of offices; second, the focus on the doctrine of hypostatic union—or the idea of the Father and the Son being “consubstantial”—resurfaces in the Reformation era with the Eucharistic controversy, in which “consubstantiation” countered “transubstantiation.” How the Eucharistic controversy led to different ideas of polity will be the subject of a later chapter.

Thus, if the first two sections of this chapter provide a historical means to understand how apostolicity and synodality were part of the tradition of the canonical, then the third and fourth parts tell the story of hierarchical consolidation within the Church and other polities within international society. The first stage of this hierarchical

consolidation took place in the period between the eighth and 11th centuries; specifically during this time period, the offices of the emperor, princes and the papacy became more distinct from one another. This is narrated through the lens of two historical events: the Iconoclastic Controversy and the Investiture Conflict. Finally in the last section, I explain how these trends of hierarchical consolidation manifested themselves in the new field of canon law, while also discussing how the tradition of canonical status, with its emphasis on myriad polities, remains influential from the 12th century and into the Reformations era.

Making Synodality

Apostolic authority and early Church polity

The early Church was preoccupied with defining the nature of apostolicity, or authority on the basis of belonging to the apostolic tradition. In this early period, attention was paid to the apostolic tradition³⁸ because it delimited insiders and outsiders to the faith, which was a distinct minority within the plurality that was the norm in Roman society. This early boundary-setting, based on roles, had implications for polity, since in defining apostolicity, the early Christians were asking questions such as: who had the authority to be called an apostle? What did that authority consist of? And how did the community organize itself on this basis? In considering these questions, I emphasize two tendencies within this period; first, I discuss early sources which associate apostolicity

³⁸ Note that I refer to the apostolic tradition in addition to apostles. This is a distinction that matters, since the apostolic tradition requires baptism as a means of initiation into the faith; however, baptism does not (necessarily) entail apostolic status.

with Church offices; second, I emphasize the importance of the community in recognizing these offices. Thus, this period demonstrates some of the earliest sources of the tradition of the canonical associating apostolicity with communalism.

Early sources for canon law,³⁹ specifically Paul's letters, Acts and *The Didache* (ca. 1st-3rd centuries),⁴⁰ which was a compilation of teachings of the apostles, highlight the importance of apostolicity to taking on Church offices. Before explaining this association, a few words about the notion of "office" are essential, since it became one of the main political features of the late medieval period, which I discuss in the next chapter.

When "office" is central, the form of administration of a given practice is well-defined functionally, but who *personally* administers the act may not be well defined because s(he) is secondary. For example, early sources were thorough in the form of the administration of the sacraments—especially baptism—but they were not specific about *who* should administer the sacraments (Watt 1965). Or, consider a modern example: the president of the United States has unchanging obligations based on the job description, regardless of who carries out the office.⁴¹ This is emblematic of the medieval notion of

³⁹ While *The Didache* may be arguably not canonical, it was nevertheless a source for later canonists when they compiled work from the early lists. See Brundage, J. A. *Medieval Canon Law*. London, Longman, 1995.. For example, Eusebius refers to *The Didache*, granting it further authority Drake, H. A. *Constantine and the Bishops: The Politics of Intolerance*. Baltimore, Johns Hopkins University Press, 2000..

⁴⁰ *The Didache* is one of the earliest church sources discussing the norms of the early church; according to tradition, it is attributed to the apostles, who recorded the sayings of Christ. The exact date it was written is not certain, though scholars place it between the 1st and 3rd centuries Draper, J., Ed. *The Didache in Modern Research*. Leiden, E.J. Brill, 1996..

⁴¹ But note an important distinction: a modern officeholder is tied to a specific place, drawing his/her authority from location first. For example, even if the President of the United States takes an action outside the physical borders of the U.S., his/her authority to do so is derived from his/her association to the geographical place first, which sets limits on what he or she can do. In contrast, medieval officeholders were limited in what they could do based on the type of office they held (bishop, priest, prince) and *then* perhaps by the place.

office: the functions of authority are specific, emphasizing the importance of the office as an obligation. Thus, an officeholder is a placeholder— he or she fills a role and is personally overshadowed by its requirements.

Late medieval international society imbued its notion of office with the apostolic tradition. Because apostles were by definition witnesses to the risen Christ (Ferguson 1997), they had the authority to testify on Christ's behalf, just as Christ had been given the authority to testify on behalf of God the Father through the incarnation. Thus, from a late medieval perspective, when Christ became human he filled the "office" of God in the world, an authority that he was then able to grant to his disciples (who then filled his office), who could then grant the same authority to others. In this way, being an apostle had a historic dimension: apostles were defined as such because they had witnessed the *specific*, risen Christ (Childs 2008, 21), just as God had concretely come into the world through the body of Christ.

For early Church communities, it was serious to claim the authority to testify on behalf of the risen Christ. Thus, it became essential to establish standards to discern who was genuinely an apostle or other leader, so as to build up, or sanctify, communities which were true to the Christian message. According to Draper, "... the community [needed] criteria ... [to] separate out the imposters, without having to abandon the institution of hospitality" (Draper 1996, 51).

Paul and *The Didache* both contributed a great deal to later medieval understanding of Church offices; both discuss, however loosely, preaching, administering sacraments, teaching and prophesying, and these functions can correspond to the later medieval orders of *potestas ministerii* (the power to administer the Word and

sacraments), *potestas regiminiis* (the power of jurisdiction, understood as temporal matters), and *postestas magisterii* (the power to teach)(Van Hove 1910). However, Paul and *The Didache* spend much more time discussing the role of the community in discerning who should carry out these offices, rather than delineating the functional differences between them.

For example, *The Didache* discusses three offices—apostles, prophets and teachers—and provides guidelines for the community to discern who was an apostle, prophet or teacher and who was not (Kleist 1948, 3-4). Scholars have noted, however, that the exact nature of apostles’, teachers’ and prophets’ work remains a mystery. *The Didache*, for example, does not specify who should preside at the Eucharist; it only specifies that there should be a Eucharist, administered by someone in a particular way. On the other hand, it is quite clear that if a visitor stays more than two or three days and asks for provisions for more than a day’s travel, he is *not* an apostle. As Draper puts it, “what work is it that makes the prophets and teachers worth their upkeep?”(Draper 1996, 58-59).

The consensus seems to be that what mattered for writers of the *The Didache* was ensuring that the community had a mechanism for staying true to apostolicity (LaVerdiere 1978). This is consistent with Paul, who did not specifically discuss offices of the Church, but he *did* discuss the role of community in discerning who should have authority.⁴² This recalls my earlier point, suggesting the importance of the sanctification

⁴² There are many theological discussions surrounding these issues. One recent example discusses how Paul’s apostolic authority is recognized in the context of community organization which mirrors the pattern of the Graeco-Roman household Aageson, J. W. *Paul, the Pastoral Epistles, and the Early Church*. Peabody, MA, Hendrickson Publishers, 2008..

of the community for the canonization process. Community discernment, for Paul, made that sanctification possible.

Further, Paul had a special role in expanding the understanding of witnessing from a material experience to a spiritual experience. Since he had a direct revelation of Christ, witnessing and testifying on Christ's behalf became based on truthfulness rather than historical coincidence (Childs 2008, 21-22). This was especially important because it meant that apostolic experience remained possible even after the time of the apostles—implying that Christ's authority continued historically and universally.

Further, for Paul, recognition of spiritual gifts in community is interdependent with spiritual revelation. The two must happen in conjunction with one another; for revelation to be valid, a community must recognize it. For one to act on a spiritual gift—for example, teaching—a community must acknowledge that gift (Koenig 2000; Childs 2008). It was this attention to community discernment that was critical for defining the nature of Church polity, for in the first few centuries of the Church, much of the decision-making about governance began to take place within local synods. Scholars have noticed an isomorphism between Paul's emphasis on the corporate body and the organization of the medieval episcopate, understood as the college of bishops (Ullman 1975, 127). And other scholars have attributed the authority of synods⁴³ specifically to Acts.⁴⁴ However,

⁴³ However, it is important to note that the very early ones were only later (by the sixteenth century) recognized as general councils because they resembled the prototype of a synod described in Acts Jedin, H. *Ecumenical Councils of the Catholic Church: An Historical Outline*. New York, Herder and Herder, 1960..

⁴⁴ Specifically, two passages: Acts 6:5 (“What they said pleased the whole community, and they chose Stephen, a man full of faith and the Holy Spirit, together with Philip, Prochorus, Nicanor, Timon, Parmenas, and Nidolaus, a proselyte of Antioch.”) and Acts 15: 6-29 (“The apostles and the elders met together to consider this matter. After there had been much debate, Peter stood up and said to them, “my brothers, you know that in the early days God made a choice among you, that I should be the one through whom the Gentiles would hear the message that the good news become believers. And God, who knows the

in this period there was no formal recognition of synodality as the preferred form of organization. There was only an unbreakable association between apostolic status and community discernment or decisionmaking, which was finding expression within synods. In the next section, I discuss how Constantine contributed to formalizing this association building upon apostolic authority and the centrality of community discernment in order to call the Council of Nicaea; this had a significant influence upon polities because it became the first general council, setting a precedent for the way medieval international society would govern itself.

Constantine and the Nicaean starting point

By the time of the Council of Nicaea (325), Constantine had adopted Christianity as the Empire's official religion. As such, he argued that he had the authority to call the Council of Nicaea, for as emperor he was claiming to be head of the Christian faith. While Constantine probably did not explicitly argue that he held apostolic status, he did nevertheless attempt to establish "a collegial relationship [with the bishops] that would make him *primum inter pares* with the group just as his predecessors had been with the Senate" (Drake 2000, 71). Looking retrospectively, aiming to be on collegial terms with ecclesiastical authority (bishops) was certainly a necessary step towards claiming

human heart, testified to them by giving them the Holy Spirit, just as he did to us; and including their hearts by faith he has made no distinction between them and us. Now therefore why are you putting God to the test by placing on the neck of the disciples a yoke that neither our ancestors nor we have been able to bear? On the contrary, we believe that we will be saved through the grace of the Lord Jesus just as they will. The whole assembly kept silence, and listens to Barnabas and Paul as they told of all the signs and wonders God had done through them among the Gentiles. After they finished speaking, James replied, "My brothers, listen to me. Simeon has related how God first looked favourably on the Gentiles to take from among them a people for his name. This agrees with the words of the prophets, as it is written ...etc. [The text, in short, is like the text of a council]). The latter passage has been called the prototype of a synod Ibid., while the former grants authority to the community of the synod. See Ozment, S. *The Age of Reform, 1250-1550: An Intellectual and Religious History of Late Medieval and Reformation Europe*. New Haven, Yale University Press, 1980. and Ullman, W. *Law and Politics in the Middle Ages: An Introduction to the Sources of Medieval Political Ideas*. Ithaca, Cornell University Press, 1975..

apostolic status. For late medieval polities then, Constantine's actions were an important historical precedent for apostolic status.

Thus, by the eighth and ninth centuries, Constantine's actions were often being seen this way. As Drake writes, referring to artistic representations of Constantine:

The collection of saints flanking Constantine is not always the same, but the place of honor almost always is assigned to Constantine himself. Just as the protocols established by Constantine set the pattern for future ecumenical councils, so too did this representation become the prototype for depicting emperors in meetings with bishops (Drake 2000, 8).

This, of course, is not to say that during the eighth and ninth centuries Constantine was uncontroversially understood as the bearer of the historic line of apostolic succession, especially since papal authority was becoming more significant during precisely the same time period; this will be the discussion of a later section. Nevertheless, it does suggest that the idea of the emperor having such authority was on the minds of some—and Constantine's particular actions in calling councils, such as the Council of Nicaea suggest that this idea is worth considering.

It is essential to note that at this time, Constantine's interactions with bishops were of far-reaching importance because they, the bishops, were the primary authorities in their regions. Canon lawyers therefore refer to the "episcopal system," under which bishops were autonomous of one another and the papacy. The centrality of the episcopal system meant that there was legal particularism which varied significantly from one jurisdiction to another. As Drake writes, "Constantine did not encounter a Church but a number of Churches, loosely bound together by a common tradition and, even more, by the willingness of their local leaders, the bishops, to cooperate with one another. There was ... no universally recognized authority above that of the bishop to enforce

conformity, much less unity—only subsequent to Constantine’s reign ... do such mechanisms come into being” (Drake 2000, 28).

The episcopal system was also further supported by the Roman tendency to govern through local authorities. In the Roman republic, governance had taken place through frequent local assemblies, a practice which was largely lost with the Empire (Drake 2000, 41). By the time of Constantine’s reign, bishops had taken on the practice of regular meetings—also called synods or councils—so as to govern their particular areas. In a sense, then, when Constantine called the Council of Nicaea, calling all the bishops to him, he drew upon a historic Roman practice, but infused it with spiritual authority. This was a new slant on Romanisation (cf Dowden 1992)—the Emperor remained the conduit through which norms were legitimated societally, but local authorities (bishops often) were the ones transmitting those norms.

This set a precedent for an ongoing interdependent relationship between imperial and ecclesiastical authorities, specifically creating a tension and a balance between Roman absolutist authority and local Church governance. This was practically the case as well as theoretically so: the spirit behind the episcopal system could be both the source of that tension and the *via media*. For example, in Tertullian’s *Apology* (2nd century) he wrote of how Christians should follow imperial authority for spiritual reasons. Consider the following:

... you say, we merely flatter the Emperor; and we feign the prayers we utter ... Examine God’s words... the Scripture says expressly ... ‘Pray for kings, and princes, and powers, that all may be peace for you.’ For when the Empire is disturbed, then we find ourselves sharing in the calamity, in the disturbance of the other members.
... There is another and greater need for us to pray for the Emperor. ... For we know that the great upheaval which hangs over the whole earth ... is only delayed

by the respite granted to the Roman Empire ... In the Emperor we reverence the judgment of God, who has set him over the nations ... (Bettenson 1947, 12).

This excerpt not only suggests that Christians and their governing authorities were regularly praying for and considering the general welfare of the Empire, but also that the Emperor's office had become vested with spiritual authority. Although the passage does not call the Emperor an apostle, the phrase "In the Emperor we reverence the judgment of God," grants the emperor authority to testify on behalf of God.

Had it not been for Constantine's decision to declare Christianity the religion of the Empire, these different paths of Roman hierarchy (expressed via the office of the Emperor) and the Church's synodality (expressed through the episcopal system) might have remained quite separate. But instead, having a means of governing the entirety of the Empire by means of Christianity became a necessity. Going back to Constantine's relations with the bishops, through the episcopal system he encountered bishops who were autonomous in *all* regards, such that the only way to maintain order in the Empire was to establish relations with them on their own terms.

Consequently, his decision to call the Council of Nicaea may not have reflected an intention to claim that the Emperor specifically had the authority to call Church councils. Rather, it may have been the only way to call all the bishops together in order to make some critical decisions about the beliefs of the community of the faithful (which I will discuss in the next section). Hence, the Council of Nicaea was a venue in which synodality coincided with hierarchy: the Emperor attempted to use his authority as the head of Christendom to call the council, but the council was still a reflection of a communal means of organizing polity. Later, these issues will re-emerge in my discussion of the 8th and 9th centuries.

Finally, Constantine's action to call the Council of Nicaea set a precedent for non-ecclesial authorities' full participation in Church councils. This was significant because Church councils were supposed to be a forum for decision-making by those holding apostolic authority—the only way councils' decisions would be deemed canonical—so by extension, non-ecclesial actors could arguably draw upon apostolic status. This was certainly an argument used in the Reformations period.

Incarnational Polities

In the first section on making synodality, I focused on how apostolic status depended on community involvement and discernment, which granted legitimacy to Church councils (and the polities which served at them) as a communal means of decisionmaking. This was a critical element in the gradual constitution of the medieval notion of Church offices, which becomes significant in the Reformations era. However, there is another piece of the apostolic tradition that is critical to the constitution of offices—and that is the understanding of the incarnation, which I alluded to briefly earlier when I discussed how Christ filled the “office” of God in the world by means of the incarnation (becoming human), thus allowing apostles to fill his office.

Thus, I refer to this period as the period of “incarnational polities” because the councils during this period were preoccupied with defining the nature of the incarnation so as to specify how society, and therefore its actors or polities, were specifically Christian. In particular, I argue that, for polities, the important outcomes of these councils were: 1) the Christian God was, had been, and always would be in the world (“incarnational”); 2) As such, God was not split into three, but was and is one God; 3) In

particular, the Holy Spirit was and is a valid incarnation of God, inseparable from the other “persons” of the Trinity.

By arriving at these outcomes at the councils between Nicaea and Chalcedon, political actors were able to maintain authority because they could call upon the incarnational nature of their own God, thus granting them status in the world. Recalling the importance of apostolicity, in this period actors were able to add another step onto apostolic status: *if* a polity could claim apostolic status on the basis of testimony and community recognition, then it could hold an office in practice— in other words, a polity would be the *incarnation* of apostolicity.

This opened the question of the nature of the incarnation, and how it was to be recognized in the world, just as questions had arisen about who could be an apostle and what the roles of apostles were. Hence, the councils between Nicaea and Chalcedon focused on questions in the following two areas: the nature of the Trinitarian understanding of God and the nature of Christ’s person (divine and human).

When Constantine called the Council of Nicaea, he did so in the context of theological differences between east and west regarding the understanding of the Trinity. In particular, Arius, author of the Church’s first well-known heresy, built on eastern ideas (Greek) regarding the character of the Logos (or the Incarnate Word); interpreters read this as teaching “subordinationism,” since—as they understood it—the Logos “was a creature of the Father” then “there was a time when he was not” (Jedin 1960, 15-16; Bellito 2002). Critics read Arius’ thinking as threatening to the status of Christians because of this: since if there was a time when God was not, then could there also be a

time when he would not be? If so, how was society to know if its “apostles”—or those claiming to be apostolic—were legitimate?

To make the case for the status of Christianity—which was arguably precarious at the time, as there were numerous persecutions—it became imperative to argue that there was *never* a time when God was not in the world—despite the fact that Jesus had not yet lived (Jedin 1960). Such an argument not only granted authority to actors who followed the apostles historically, as my references to Paul’s focus on spiritual revelation suggested, but it also allowed the Church (inclusive of the Empire at the time) to read history forwards towards the life of Jesus.

Taking this into account, the first draft of the Nicæan Creed, agreed to at the Council, included the following: “God from God, Light from Light, True God from True God, begotten not made, of the same substance⁴⁵ as the Father” (Jedin 1960, 18). Since this statement made it clear that the Son was not subordinated to the Father, it was approved at the Council, and Constantine adopted the creed as the law of the Empire.

However, subordinationism was not the extent of the controversy regarding how the incarnation was recognized in the world. After the Council of Nicæa, disagreements still remained regarding the nature of the Trinity—but rather than focusing on the relationship between the Father and the Son within the Trinity, these disagreements focused on the relationship between the Holy Spirit and the other persons. For our purposes,⁴⁶ these questions became important because the Holy Spirit was the means by

⁴⁵ The term “consubstantial” is also used by scholars as a translation of “homoousius” Jedin, H. *Ecumenical Councils of the Catholic Church: An Historical Outline*. New York, Herder and Herder, 1960..

⁴⁶ Understanding the Holy Spirit was also important because Christianity had inherited monotheism from the Jews, and monotheism distinguished Christians from the Romans; to clarify that Christianity was

which apostolic status could still be claimed. Without the Holy Spirit's intervention, no one could claim to witness the risen Christ.

A number of smaller synods were held after Nicaea in order to address questions surrounding the character of the Holy Spirit, which ultimately culminated in another general council: the Council of Constantinople in 381. At Constantinople, members of the Council re-affirmed the statement countering subordinationism in the creed, but added a further statement to clarify the divinity of the Holy Ghost: "Lord and life-giver, who is worshipped and glorified in the same way as the Father, who has spoken through the prophets" (Jedin 1960, 24-25).

However, clarity regarding the Holy Spirit aside, the question remained: *how* was the Holy Spirit to be known in the world? In other words, by what means and in what form did (or does) the Holy Spirit intervene? The modern western Churches add the following within the Nicæan Creed: "We believe in the Holy Spirit, the lord, the giver of life, who proceeds from the Father and the Son..." (cf Episcopal Church 1979, 358). At Constantinople, east and west disagreed, with the latter arguing that the Holy Spirit proceeds "from the Father through the Son" while the former argued "from the Father and the Son" (Jedin 1960, 27). These phrases again echoed Arius's subordinationism, which had allegedly been resolved at Nicaea.

These disagreements were not resolved at Constantinople. Members of the Council could only agree that Holy Spirit was divine, and an iteration of God, and crucial to understanding the relationship between the Father and the Son—and therefore

indeed monotheistic, it was essential to explain how a Trinitarian God was one God Ibid, Dowden, K. *Religion and the Romans*. London, Bristol Classical Press, 1992..

humanity and God. They could *not*, however, agree whether the Holy Spirit was the intercessor between the Father and the Son, or the iteration of the Son before and after Jesus's life—etc. Thus, despite the importance of their agreement, particularly since it reinforced apostolic authority after Christ's life, the disagreements raised further questions. The interpretation that the Holy Spirit proceeded *from* the Father through the Son implied a much more hierarchical relationship between God and humanity.

There were two heresies that countered one another in response to these questions: the Nestorian heresy, and the heresy caused by Eutyches, called the “opposite of the Nestorian heresy” (Schaefer 1908). Regarding the former, Nestorius argued that God dwelt in Jesus “as in a temple.” His opponents, however, argued that “the [one] divine nature permeates the human nature as fire permeates red-hot coals or a burning log,” which later became known as syncrasis, or the doctrine of “hypostatic union” (Jedin 1960, 28-29). These two arguments expressed different understandings of the relationship of humanity to divinity in the world— thus suggesting that the incarnation meant different things.

It was the latter which was initially adopted by the Council of Ephesus (431). At this council, Nestorius was defrocked from the episcopacy because his position undermined Christ's divinity in the context of debates regarding the Virgin Mary. Because he argued that God dwelt in Jesus “as in a temple,” a parallel argument was made that Jesus dwelt in Mary “as in a temple.” As such, she was merely the mother of the human being Christ (Christokos, “mother of Christ”). In contrast, eastern Churches had long argued that she was “Theotokos,” or “mother of God.” While this did not make Mary divine, it did mean that she had not had a human birth (Jedin 1960).

Accepting that the Virgin Mary was the Theotokos and the doctrine of hypostatic union were critical for the Church politically. Calling Mary Theotokos meant understanding that a human being had brought God into the world—which had far-reaching implications for humanity’s redemption *in the world*. I add the emphasis because I am not referring to long-term eschatological redemption, but rather to specific redemptive justice in the material world. The theological position of Theotokos suggests that Mary lived, as did Jesus, who she gave birth to, who was the Christ *materially*. Political actors— in this case members of Church councils—wanted to know that their actions could be infused with God’s redemption.

If we look at the opposite of the Nestorian heresy, the importance of hypostatic union, as expressed through the title Theotokos, becomes even clearer. Eutyches argued that human nature had been united in the person of Christ, so that human nature merged with the divine “so that from that moment there could only be question of one nature, the divine” (Jedin 1960, 37-38). This emphasis on the divine alone was considered heretical because it put Christ’s humanity in question, which was critical for human redemption in the manner in which I described above.

Eutyches was condemned by a small synod in 448, but this did not prove effective to still the heresy, so in 451 Pope Leo asked the Emperor to call another council to resolve the matter of the two natures of Christ; this became the Council of Chalcedon, at which the Nicene Creed was reaffirmed and a middle course was drawn between the opposing theologies of the two natures (Jedin 1960, 39-42). The Council ended the controversy regarding the two natures by resolving as follows: “We teach ... one and the

same Christ, Son, Lord, Only-begotten, known in two natures, without confusion, without change, without division, without separation” (Schaefer 1908).

In addition to resolving the controversy surrounding the two natures, and reaffirming the doctrine of hypostatic union, there were also a couple of other notable features of the Council of Chalcedon. First, the Council of Chalcedon affirmed the magisterial authority of the bishop of Rome (Lynch 2003, 203) and members of the council agreed that Peter had spoken through Leo (Schaefer 1908; Jedin 1960). While the Council and its members may not have set out to grant greater apostolic authority to the pope, it did so by via the debate regarding the two natures. However, as I mentioned earlier, Leo I requested that the Emperor call the council; hence, it is important to note that Chalcedon affirmed the *magisterial* authority of the pope—in other words, his authority to interpret and decree doctrine to the Church. It did not affirm his authority to govern. This distinction will matter later in the reformations period.

Last, in the course of this, synodality was well established as a means of resolving theological–political issues— as demonstrated by the continuing string of councils and synods that were called to address the two natures and the Trinity. This suggests that apostolicity, as discussed in the first part of this chapter, had become an underlying assumption; because of apostolicity, politics could take up controversial questions in more formalized communal settings: councils.

Further, the particular issues discussed at this time, articulated substantially in the terms of the incarnation, suggest a preoccupation with translating the theological into material terms. Although these councils did not formally take up matters of governance as later Church councils would, it was nonetheless left to politics to live out the

implications of these councils. The fact that the Council of Chalcedon affirmed the magisterial authority of Rome is a nod towards the political implications of these decisions. It is this authority which would become further solidified in the next period I discuss.

Duo Sunt: hierarchy and synodality

This section uses Gelasius's well-known canon, *duo sunt*—or “two there are”—as an anchoring device to discuss the consolidation of hierarchy and syndodality within international society. This canon, starting with Gelasius's introduction of it and running into the Reformations period, was first named for the scriptural references to Peter and the disciples receiving the two swords. It was then used to justify an evolving set of arguments regarding which polities could wield the swords. I will begin by discussing the canon and the method of “political allegory,” which allowed political arguments to arise from the scriptural source of the canon. This locates my discussion of the new idea of *imperium* and its coexistence with episcopacy in this period, along with two major historical events: the Iconoclastic Controversy and the Investiture Conflict.

While these historical events dealt with very different theological issues—specifically, the visual representation of the incarnation and jurisdiction of property, respectively—they do have at least one feature in common: in the course of these events, new arguments regarding the authority of the Empire and the papacy were drawn out of the circumstances. I highlight these, while also discussing how these arguments were derived from the particular theological questions, since these questions place these events within the tradition of the canonical, which I have been addressing in this chapter.

Some historical accounts will discuss the Iconoclastic Controversy as one of the instigators of the division between Eastern and Western sees. While this may be part of the story, my concern here is with the fact that the controversy raised the status of the imperial office to a greater degree. Divisions between East and West do figure into this account, considering that this was the first era in which maintaining a Western—or Roman, in the cultural sense—imperial idea became important. Nonetheless, I do not focus on how the controversy contributed to these divisions, but rather to how the controversy fed into vesting of *imperium*.

Not dissimilarly, the story of the Investiture Conflict is often related as the constitutive moment in the invention of secular authority. There is no doubt that the conflict did contribute the sharpening of distinctions between lay and clerical, but was this because there was existing “rivalry” between the two? (Spruyt 1994, 50). As with the Iconoclastic Controversy mentioned above, here I also steer away from the traditional account’s focus. Instead of examining the division between lay and clerical in light of this conflict, I look at how the conflict led to clearer arguments for authority for all polities at the societal level.

Duo Sunt—“Two There Are”

I argue that Gelasian doctrine—in particular the canon, “duo sunt,” or “two there are” became the predecessor for strong papalist positions within the Reformations period. In brief, *duo sunt* stated that the pope had had “divine charge . . . for the soul of the emperor and all men” and also juridically over the emperor. This emphasized the subordination of secular power to sacerdotal superiority, in particular that the latter was

not confined to matters of the soul (Watt 1965, 14). I also make a supplementary argument that the method of “political allegory,” which the canon *duo sunt* owed its preeminence to, was a critical predecessor for debates within the long Reformations period discussed in the next chapter, specifically conciliarism and papalism and the Eucharistic controversy.

Scholars have long focused upon how “Gelasian doctrine” contributed to secularism, particular via the Investiture Conflict (cf Spruyt 1994). However, research does not tend to focus on the political implications of the theological understanding of *duo sunt*. This is unfortunate because in the period between Gelasius and Gratian, the period discussed here, the “political allegory” method of reading Scriptures was becoming more common, flourishing especially in Gratian’s time. Those using this method would draw out the spiritual foundations of political readings of well-known scriptural passages (Burns 1988).⁴⁷ The most well-known of these political allegories was the two swords passage drawn from Luke 22:38—“They said, ‘Lord, look, here are two swords.’ He replied, ‘It is enough’” (NRSV)— which was the source of Gelasius’ canon *duo sunt*. This passage was used often to justify the distinction of two powers in the world, one spiritual, the other temporal, a sword for each one. However, arguments arose regarding the nature of the authority associated with each sword. For example, discussion centered upon the questions like: were the two swords equal in authority? Did one sword obtain its authority from the other?

⁴⁷ The scripture passages which I discuss below from Luke, Romans and Ephesians are drawn from Levison, W. "Die Mittelalterliche Lehre von den Beiden Schwertern." *Deutsches Archiv für Erforschung des Mittelalters* 9(1951): 14-42., who argues that they were used to explicate the two swords allegory. However, the explication I provide here differ from Levison’s, since it focuses on the emphasis, again, on the tradition of the canonical. Thanks go to Scott A. Sigmon for assistance with understanding Levison’s German.

Canonists began to add other Scriptural passages to the discussion in order to engage with the nuances of these types of questions. They added Romans 13:4: “But if you do what is wrong, you should be afraid, for the authority does not bear the sword in vain! It is the servant of God to execute wrath on the wrongdoer.” And Ephesians 6:13-17 (cf Levison 1951):

“Therefore take up the whole armour of God, so that you may be able to withstand on that evil day, and having done everything, to stand firm. Stand therefore, and fasten the belt of truth around your waist, and put on the breastplate of righteousness. As shoes for your feet put on whatever will make you ready to proclaim the gospel of peace. With all of these, take the shield of faith, with which you will be able to quench all the flaming arrows of the evil one. Take the helmet of salvation, and the sword of the Spirit, which is the word of God.”

Both of these passages were used to justify exercising a *spiritual* sword, or stated differently, they provided the justification for those with spiritual authority to take up arms against those who misunderstood the word of God. But who had such authority? And did the holder of spiritual authority also have authority to rule, or wield a material sword?

The Ephesians passage seems to suggest the contrary: it says to take up the “sword of the Spirit” and “proclaim the gospel of peace.” Yet, the language is unmistakably that of war: “take up the whole armour of God... put on the breastplate of righteousness.” Meanwhile, the Romans passage exhorts those with authority to “execute wrath on the wrongdoer.” These tensions between spiritual authority, the language of war, and a call for preaching peace were precisely the issues that fed into canonists’ questions. Could the Church bear arms at all if its authority was spiritual alone? Should princes bear arms in war instead, and if so, were they to do so on behalf of the Church? And if they did bear arms on behalf of the Church, what were the moral implications of this for the Church?

As I mentioned, the method of political allegory was gradually applied more often in the period leading up to Gratian's work. Because of this gradual evolution, the arguments associated with the two swords allegory changed over time, with the same passages being applied in varied ways. Further, other complementary passages and images were brought into the discussion, even while the two swords remained prevalent.⁴⁸ The addition of complementary passages suggested a layered patchwork of arguments, no longer just about the two swords, but the idea of "two there are" and the questions of authority which went with it.

In other words, I would argue that Levison is suggesting that associative, layered arguments were a characteristic of the medieval period; they mirror the complex variation of polities, and the idea of a tradition of canonical status. *Duo sunt* sits at the juxtaposition of a number of themes central for this research, then: first, as a canon with political implications, it demonstrates how varied polities could claim authority on its basis; second, because it is based on scriptures, it demonstrates how canonical status is built upon apostolicity; third, it provides historical context in which questions of which hierarchies had authority. I will return to these issues in the final section of this chapter, in which I will discuss the iterations of the "two swords" in the twelfth century and the types of arguments about hierarchy that were emerging as a result.

⁴⁸ See Levison's discussion: in brief, he argues that multiple images capturing spiritual and temporal power(s) and their relationships were used, including the two swords, the two keys, the goblet (of the Eucharist, one presumes) and the bishop's mitre. Use of various images was characteristic of the time period, and demonstrated how the society could mix different notions of relations between spiritual and temporal Ibid..

Imperium and episcopacy

Simultaneously as *duo sunt* facilitated discussions about papal authority, another idea began to flourish: the idea of *imperium*. The period between the 8th and 11th centuries—after Chalcedon and before Gratian—was a period of consolidation of hierarchical regulations for both Church and Empire. Indeed, this period is arguably emblematic of the emerging “canonical status” of polities, for bishops, the papacy, princes and the emperor were *all* claiming their authority through reference to the apostolic. Specifically, what was new in this time period was the focus on the idea of *imperium*: Dante aptly described *imperium* as a “seamless cloak that cannot be rent” (Riesenberg 1956, 26),⁴⁹ capturing the autonomy that each office—emperor or pope—had in his own realm. Although Dante was writing after Gratian, and was therefore not yet writing in this period, his idea captures the essence of a growing trend towards the strengthening of both the Empire and the papacy at the time.⁵⁰

⁴⁹ As Riesenberg explains, after citing Dante, *imperium* was “the sum of governmental powers and functions” Riesenberg, P. N. *Inalienability of Sovereignty in Medieval Political Thought*. New York, Columbia University Press, 1956.. But *imperium*, once it had made its way into Christian thinking, was more than Riesenberg’s definition, which is reminiscent of *dominus mundi*. Dante’s seamless cloak is not just seamless because it is a totality which cannot be divided in the ideal sense, thus representing the supremacy of the one who wears it; it is seamless because it is perfect. It recalls Jesus’s own garments: “When the soldiers had crucified Jesus, they took his clothes and divided them into four parts, one for each soldier. They also took his tunic; now the tunic was seamless, woven in one piece from the top. So they said to one another, “Let us not tear it, but cast lots to see who will get it.”⁴⁹ This passage later became the theological justification for the clerical wearing of vestments—a seamless gown sewn from the top. In a sense then, clergy “put on” their ecclesiastical office in the wearing of vestments. This idea of wearing one’s office, of fully becoming it, is ultimately different from *dominus mundi*, however universal the emperor may have been because of his role.

⁵⁰ As Tierney writes: “there was not just one idea of Empire in the Middle Ages but several. From a high papalist point of view the Empire was an office within the Church, deriving its authority from the pope. For the German emperors it was essentially a title to rule Germany and Italy, derived from God through election by the princes. From the revived Roman law came the idea of the emperor as *dominus mundi*, a lord of all the world, and Dante transformed this legal rhetoric into a vision of a universal Christian Empire of peace and justice, with an emperor, not the pope, as its head” Tierney, B. “Empire and Order.” *Catholic Historical Review* 86(3)(2000): 482-483..

Imperium was, of course, not a new idea. It was derived from the Roman legal concept, based on granting full authority to the two pillars of their governance: the army and the bureaucracy (Van Creveld 1999, 41). What was new was the process whereby it informed myriad polities regarding how they could claim authority in international society.⁵¹ This take on the period stands in contrast with the traditional account, which maintains that the dissolution of the Carolingian Empire in the 8th and 9th centuries made way for principalities, which eventually opened the door to the nation-state (Burns 1988).

Although the dissolution of the Empire *did* make room for principalities, I would argue that these principalities were obtaining their authority on the basis of *imperium*, rather than establishing a new kind of authority. In other words, the idea of *imperium* fed into the theory of monarchical authority, which was also developing simultaneously (Tierney 1964; Brown, Nardin et al. 2002). Just as bishops and the pope were understood to be autonomous within their own jurisdictions, so princes were also. As Tierney explains, new polities were led by rulers claiming to be “emperors in their own realms,” and these new polities “rendered ... [papal arguments] ... superfluous” (Tierney 1964, 159-160).

However, in this period episcopacy was also the norm. For example, one of the works that later informed Gratian, Regino of Prum’s *Liber de Synodalibus Causis* (ca. 906, *The Condition of Synodality*), focused on guidelines of diocesan administration, and the use of synodal methods in order to resolve conflicts within areas of ecclesiastical jurisdiction (Ullman 1975, 131-132). Works such as Regino of Prum’s not only reflected

⁵¹ It was the practice of the Roman Empire to keep the two pillars of the army and the bureaucracy as separate as possible so as to prevent the formation of a hereditary aristocracy Van Creveld, M. *The Rise and Decline of the State*. Cambridge, Cambridge University Press, 1999..

the centrality of episcopacy in the period before Gratian, but they also played an influential role in keeping episcopacy foundational in Gratian's work—a theme that will be addressed in the next section.

To the modern reader, this coexistence of *imperium* and synodality might seem paradoxical. It would be useful, then, to remember that *imperium* did not necessarily imply imperialism (1989), but rather referred to an office or status within international society.

The rise of *imperium* thus went hand in hand with the continuing centrality of synodality. Even as princes and bishops became more autonomous in their own jurisdictions, in accordance with *imperium*, they were nonetheless obtaining a decentralized form of authority that did not guarantee the obedience of their subjects. Consider, for example, the fact that when princes signed treaties during this time, they did so in their own names, not on behalf of anyone else. This consistently raised questions regarding whether or not their heirs were even bound by a treaty, not to mention the unclear implications for subjects in their own realms (Lesaffer 2004).

Further, the ninth century officially “invented” ecumenical councils, arguing that councils concerned with the general welfare of Christendom must include representatives from multiple provinces and necessarily be called by the pope (Jedin 1960).⁵² Here again *imperium* was added to the existing tradition of synodality. Because *imperium* was bringing more formal hierarchy into the picture, this meant that even authority which was

⁵² There was a ninth century compilation of papal letters after which major synods (those including more than one ecclesiastical province) could not be held without papal consent Jedin, H. *Ecumenical Councils of the Catholic Church: An Historical Outline*. New York, Herder and Herder, 1960..

not necessarily “imperial looking”—such as Church councils—was becoming more formally defined.

The Iconoclastic Controversy

The Iconoclastic Controversy is typically divided into two phases, one in the eighth century (ca. 720-780s), separated by an interval during which iconoclasm quieted, and a second in the ninth century (ca. 815-842) (Noble 2009, 46-47). Scholars do not know why the controversy arose⁵³; what they do know is that it was a peculiarly Eastern set of concerns which raised questions regarding—in the most general terms—how the Incarnation was to be translated in material practice—if it could be at all. I will deal with only the first of the two phases, since it was to this phase that the West responded; the second phase is too particular to the east to be considered central for this research.

I have stated the question in the most general terms so as to place it in the context of the previous section on incarnational politics. Ultimately, the questions in the Iconoclastic controversy might be traced back to (at least theologically, if not historically) questions regarding the articulation of the Trinity and the two natures which constituted the formative debates of the early councils. Iconoclasts expressed doubt regarding the assumption that “if Christ is incarnate, he can be depicted. On the other hand, whoever rejects his image, rejects his real physical existence” (Avenarius 2005, 37). This assumed that image of Christ would at least “approach” his divine nature—even

⁵³ Although one interesting theory, suggested by Bettenson, is that Christianity was seen in the east as “superstitious” compared to Arab monotheism, so iconoclasm may have arisen as a means of preserving the integrity of the faith Bettenson, H., Ed. *Documents of the Christian Church*. London, Oxford University Press, 1947..

though the approach would be mysterious or obscure—because of the simple fact that it was an image of Christ (Avenarius 2005, 53).

For iconoclasts, there was a conundrum: what happened in the human process of creating the image? How, with human hands, was it possible to create an image with two natures, one divine and one human? For iconoclasts, direct knowledge through created things—images in particular—was false knowledge because it was not of God. God was the Logos, or the Incarnate Word, and words, unlike images were living (Avenarius 2005, 39, 53).

The question of how it was possible to create an image with two natures was Constantine V's question. He wrote a set of inquiries which shaped the agenda of the Council of Hieria (754) at which the bishops fundamentally agreed with the emperor's position that the divine nature was "circumscribed" by creating an image; they argued against idolatry on the basis that images were not equivalent to words, which could convey theological realities. As Noble summarizes of the bishops' position at the council: "Worthless and dead matter simply cannot capture the glory of God or the virtue of the martyrs and saints. Texts alone can do this" (Noble 2009, 94-95).

But iconoclasm did not win at the Council of Hieria. Images still had a long history of use in worship, so iconoclasm was not easily quelled. After Constantine V's death, Irene, acting as envoy for Constantine VI, who was too young to rule, attempted to resolve the issues at the Second Council of Nicaea (787). This second council of Nicaea was considered ecumenical, and it allegedly "solved" the problem of iconoclasm with a set of agreements stating how images were to be acceptably used in worship. However, because this council was called by Irene, who did not have the same legitimacy as an

emperor (especially in the West), the resolutions at the council were temporary (Avenarius 2005).

Although the West did respond to the crisis, scholars question whether the West was responding to the issues at hand or to another set of concerns (Noble 2009, 1-3).⁵⁴ In the *Libri Carolini*, a work coming out of the Frankish realms in response to the Council of Nicaea, its writers distinguished between an image as a decoration for Churches for educational purposes vs. an idol, which drew people into superstition; they also argued that the Byzantine Church had mistranslated the Latin into Greek, and therefore did not understand the difference between *adoratio* and *veneratio*, which are acts which belong to God and the saints, respectively, alone (Avenarius 2005, 74). However, the premises behind both of these points—distinguishing between images and idols, and adoration and veneration—were that images could not take on the symbolic, mysterious properties which the eastern icondules suggested.

The possibility that the West was responding to a different set of issues raises the question of whether they in fact used the opportunity of the eastern crisis to further an agenda to increase their imperial status. Although in one sense the Eastern Church's questions regarding the authority of images struck right at the heart of the question of canonical authority, recall that canonization was originally a process applied to written sources; for this reason, some scholars seem to think that the West had very little interest in the east's theological questions, since discussion of images, in this manner, was so

⁵⁴Scholars ask: what was the western response? Was there a controversy at all? Did it cause a crisis? It is usually argued that the Carolingians did not understand the basic issues involved in the dispute; while there were Frankish concerns (regarding images, they were fundamentally different from eastern concerns) (See Noble, as above).

foreign. For example, Pope Hadrian did not make such arguments until *after* the crisis was over. And when he did highlight the theological differences described above after the crisis, he also argued that Byzantine emperors should follow the example of Constantine and recognize the authority of the Roman Church; he also objected to the Patriarch of Constantinople calling himself ecumenical, as well as the fact that the Patriarch Tarasius was elected as a layman (Avenarius 2005, 73-74). Each of Hadrian's arguments furthered the Roman papacy in a different way: first, Hadrian was arguing that Constantine was the *Roman* emperor, and therefore when he made Christianity the Empire's religion, he made it Roman. Hence, there could not be two patriarchs, one in Constantinople, and the other in Rome. Further, Hadrian was emphasizing the necessity of following the rules of hierarchy appropriately. One could not become a patriarch without progressing through appropriate levels: layperson, deacon, priest, etc.

This raises the question of whether crisis in the East was affecting how both the papacy and the Empire saw themselves at this time. Although some scholars would argue that it is "distinctly premature to speak of the papacy of the eighth and ninth centuries in similar terms to those generally used for that of the twelfth and thirteenth [centuries]," there are also examples of the papacy referring to itself as "sovereign," particularly as it responded to imperial iconoclastic edicts that were unpopular in the West, thus allowing it to develop a much more particular, corporate identity distinct from the Empire and bishops (Costambeys 2007, 57-59).

Ironically, as the papacy was becoming more distinct at least partly in response to the Empire's [iconoclastic] policies, so were other institutions on a smaller scale. Costambeys' work, cited above, addresses the increasing autonomy of monasteries,

especially in Italy, and his work is emblematic of a broader discussion regarding (monastic) autonomy among historians (Berkhofer 2004; Rittgers 2004). While monasticism and monastic autonomy are issues that are too local for the societal scope of this study, it is important to note that local institutions like monasteries, similar to the papacy, were just as fixated upon distinguishing their authority. Examples like this suggest that while centralized authority was becoming more important, society was dispersed and arguably required multiple centralized authorities—or stated differently, multiple *centers* of authority, requiring multiple hierarchies to maintain those authorities.

The Investiture Conflict

Hendrik Spruyt has already given an account of the Investiture Conflict specific to international relations in his work, *The Sovereign State and its Competitors*, which I discussed more broadly in the introductory chapter. Here I focus on his account, adding some more specifics regarding the canonical that he alludes to in his account, but does not have time to address in detail.

Spruyt argues that the bishops, and especially the bishop of Rome, had an interest in the hierarchical centralization of the Church, but their interests were quite different from the local clergy, who had to maintain (Church) property at the local level. Traditionally, clergy often were granted their offices from secular rulers, administering properties in their lifetimes, after which they would return to the secular lord because the clergy had no heirs. This was referred to as “lay investiture,” and it is this which the Church had to reform if it was to centralize its hierarchical organization (Spruyt 1994, 48).

Spruyt continues that the Church began to interpret Gelasian doctrine (5th century) in the context of the Investiture Conflict in order to support its authority (Spruyt 1994, 48). In the canon *duo sunt* (“two there are,” referring to the power of the two swords), as I mentioned earlier, the canonical writers argued that the pope had “divine charge ... for the soul of the emperor and all men” as well as juridically over the emperor. This emphasized the subordination of secular power and that sacerdotal superiority was not confined to matters of the soul but rather a “judicial power with public effects enforceable under a sanction” (Watt 1965, 14).

As the previous statement demonstrates, Gelasian doctrine was not crystal clear regarding spiritual-temporal and papal vs. imperial power, but it nevertheless did *allow* the papacy to begin to make the argument that it was superior in spiritual matters. If this was the case, the emperor could not endow clergy with their offices (Spruyt 1994). Rather, it should be the other way around, according to the papal argument: only ecclesiastical authorities should endow temporal authorities with their offices.

These papal arguments led to the Gregorian reforms, the response to the Investiture Conflict, detailed in the *Dictatus Papae* (1075). Spruyt includes five key points of the Gregorian Reforms: 1) the pope alone may be called “universal”; 2) Only the pope can depose/reinstate bishops; 3) The pope may depose the Emperor; 4) The Church is free from error both presently, historically and in the future; 5) The pope may absolve subjects of those considered unjust from their oaths of obedience (Spruyt 1994, 48). Spruyt includes these five points because they are focused on the methods by which the Emperor’s spiritual authority was circumvented. As Spruyt summarizes, regarding the Investiture Conflict:

The revolutionary impact of the Investiture Conflict was therefore twofold. First, in separating the two realms, it necessitated secular rule to justify itself by other than spiritual means. Second, in distinguishing the two realms, which both had claims to universality, the two became rivals . . . As a result, both camps had to seek political allies, search for new sources of legitimation, and rationalize their administration and legal machineries. The Investiture Conflict in a sense necessitated rulers to “invent” secular rule (Spruyt 1994, 49).

Spruyt’s overall point here is well-stated; the two realms *did* have to distinguish themselves more strongly following the Investiture Conflict. However, while I would concur that secular rule had to “invent” itself in response, I would reframe his point in two ways: first, I would instead say that secular power had to *reinvent* itself in light of a new emphasis on papal authority. Before the twelfth century, as we have already seen, imperial involvement in spiritual matters was routine—so much so that it did not need to assert itself specifically. The papacy, however, did have to assert itself specifically in order to gain authority, and this led other actors to respond in kind; second, I would reframe Spruyt’s claim that “it necessitated secular rule to *justify* (emphasis mine) itself by other than spiritual means” to “it necessitated that secular rule *exercise* its rule by other than spiritual means.”

This slight variation in the language, from justifying to exercising, makes a difference because the Empire was still drawing upon spiritual foundations in order to justify its authority. What was changing was the content of its authority, or its jurisdiction; in other words, Spruyt points to the increasing distinction between spiritual and secular, and the focus on separate “machineries” for both. I would argue that the machinery of the Empire’s jurisdiction was changing, but as of yet, the Empire made its claims to its jurisdiction on the basis of spiritual authority—the tradition of the canonical.

There are a few points Spruyt overlooks in the *Dictatus Papae*, and which may be read in light of the interpretation I suggest above. First of all, in addition to stating that the pope alone can depose or reinstate bishops, the document also states “That without convening a synod he [the pope] can depose or reinstate bishops”; and also “That no synod may be called a general one without his order”; finally, “That he himself may be judged by no one” (Tierney 1964, 50). These points are worth adding to the discussion here because they demonstrate how the pope had to specifically respond to the authority of general councils or synods. Until papal supremacy was specifically argued for, councils had much more authority because the tradition had been to work out the Church’s polity issues in general councils— and these had been called by emperors many times in the past several centuries. To further add to these, the *Dictatus Papae* reminds us of the pope’s apostolic authority, stating that “if canonically ordained, [the pope] is undoubtedly sanctified by the merits of Saint Peter” (Tierney 1964, 50)

Canon law and the tradition of canonical status

As I mentioned in my introduction, late medieval scholars interested in canon law often refer to the “12th century Renaissance” because of the publication of Gratian’s *Decretum* within this time. However, the 12th century was a fruitful time for political ideas generally, so while Gratian deserves significant credit for the formation of the field of canon law, it must be understood that his work was the product of a time ripe with political ideas, many of which I would argue were dependent upon the prior and evolving tradition of canonical status. In other words, in this time the new field of canon law was

invented but the tradition of the canonical, which was especially important for non-church polities, did not go away.

At this point it is therefore necessary to understand how canon law and the tradition of canonical status differ from one another, in particular how canon law may be understood as the twelfth century iteration of the canonical. By building upon the traditions of apostolicity, synodality and hierarchy, canon law became a particular legal system which granted authority to ecclesiastical hierarchy. It provided a legal structure that asserted that the pope was the right descendent of Peter the apostle's authority, and all other ecclesiastical authority flowed from this. Therefore, ecumenical Church councils, canon law's iteration of synodality, had authority based on the apostolic witness of the papacy.

But the tradition of the canonical— that broader set of customs and practice built on the traditions of apostolicity, synodality and hierarchy— did not go away upon the advent of canon law. Rather, polities beyond those which were legitimately or formally ecclesial continued to draw upon the same canonical foundations. Hence, where canon law only recognized ecumenical councils as an expression of synodality, the tradition of the canonical would include imperial diets. And while canon lawyers would assert the primacy of Peter the Apostle, other theologians in the Reformation emphasized the importance of all the apostles, which allowed them to emphasize the whole body of the faithful rather than papal supremacy. These are both examples which will receive more attention in later chapters.

There was no doubt that papal supremacy was becoming the norm in canon law after Gratian. Nonetheless, this was not a flawless foundation, not least because papal

supremacy was never the same thing as papal infallibility.⁵⁵ For example, from the twelfth century, the Scriptures were reinterpreted⁵⁶ as sources of canon law, as were sources such as *The Didache*, which was a legal treatise believed to be written by the apostles (Bettenson 1947). Notably, for even the strongest papalists, the pope was not seen as above Paul's epistles. This was because Paul's letters were seen as addressing matters of faith and, as such, the pope could not alter these (Ullman 1949, 53).

I discuss these coexisting tendencies towards papal supremacy and the plurality of governance with two separate illustrations: a discussion of the medieval university as a demonstration of experimentation with multiple hierarchical authorities; a discussion of an example from Gratian's work, the themes of both of episcopacy and papalism within the *Decretum*. In short, I argue that the coexistence of these tendencies is what demonstrates that the tradition of canonical status remains important even with the new field of Canon law entering the scene—and it is this which is carried into the Reformations period.

The late medieval university

The University played a pivotal role in defining the new field of canon law as well as providing a venue in which the tradition of the canonical still flourished. In both

⁵⁵ Papal infallibility was not doctrinal until Vatican I. See Jedin, H. *Ecumenical Councils of the Catholic Church: An Historical Outline*. New York, Herder and Herder, 1960..

⁵⁶ Passages such as Acts 6:15 became important sources for justifying episcopal elections Helmholz, R. H. *The Spirit of Classical Canon Law*. Athens, University of Georgia Press, 1996.. Also see Bellito, C. M. *The General Councils: A History of the Twenty-One Church Councils from Nicaea to Vatican II*. New York, Paulist Press, 2002. on the differences between Acts and Galatians as sources to justify church councils. As he explains, Paul in Galatians describes the group agreeing over a handshake while James in Acts listened to everyone and then made a decision. Both suggest there was consensus with the language of "us," but the Acts passage suggests a more hierarchical form of decisionmaking even within the "us."

cases, I argue that the university's role is at least partly associated with the fact that it had always been a locus where multiple polities interacted. In the case of canon law, this complex interaction between polities was a threat to the regularity that the new legal system could provide. But in the case of maintaining the tradition of the canonical, polities were doing what they had always done: they sought authority on the basis of apostolicity, synodality and hierarchy.

To understand this it is helpful to remember that the tradition of the canonical is an analytical, not a historical term. There was no school of thought associated with maintaining this tradition as there was associated with the new field of canon law. Therefore, when I say that the university provided a venue for the tradition of the canonical to continue to flourish, I refer to the university's role in legitimizing multiple polities' authority within international society. Specifically, because universities were loci where many levels of the international society's hierarchies interacted, and the university had a distinct status from the Church, multiple polities had the opportunity to develop their authority. I will explain the historical and legal reasons that the university had this role.

In the 11th and 12th centuries, as monastic schools became much more cloistered from the outside world, distinguishing their autonomy in the in the context of the Investiture Conflict, which I discussed in the last section, the members of the nobility and the middle classes needed a venue for learning, which was more reflective of a society made up of pluralistic actors. Universities were partly a response to this; their organization drew upon the model of cathedral organization, which was the best model to mirror the pluralistic society because they drew upon actors from a variety of hierarchies.

For example, unlike a parish Church which had one priest, cathedrals' services were organized by a group of clergymen, representing offices at different levels of the Church hierarchy. By setting an example of how actors at different levels of the hierarchy interacted, cathedrals provided a way of the regularizing society (Wieruszowski 1966, 18-19). Therefore, because universities were influenced by the organizational model of cathedrals, they drew upon one of their key features: a model built upon the interaction of a multiplicity of actors.

The universities were also influenced by the structure of guilds. Borrowing from the guilds, the universities, in the early stages of development, first codified unwritten customs into a body of written law governing the organization, thus defining it as a corporation with the legal right to sue or be sued; further, they began using an official seal after which they were able to formally assign offices within the structure of the university (Daly 1961, 19-21). The structure of the guilds provided a model for the nations at universities to organize themselves: the nations were associations of students and masters (professors) from similar geographic regions who were also studying the same subject matter. These nations had complex organizing procedures, including rules for membership, responsibilities to the nation before and after graduation, rights granted to members when they were studying versus not studying, etc. (Daly 1961, 30).⁵⁷

I mention how the universities were influenced by the organization of cathedrals and guilds in the context of the tradition of canonical status because these two

⁵⁷ From Ullman, W. *Law and Politics in the Middle Ages: An Introduction to the Sources of Medieval Political Ideas*. Ithaca, Cornell University Press, 1975.: Habita was a decree by Frederick that asserted that both lay and cleric students would have the same privileges of impunity from taxes and tolls on the journey to the university; freedom from reprisals; jurisdiction conferred on the teacher of the student.

organizational systems were also adopted during the societal congresses of the long Reformation, starting with the Council of Constance. Polities at societal congresses were indebted to the university system for providing these models as well as providing the bodies at the councils themselves, who brought the ideas necessary to reform governance matters in international society. In later chapters, it will become apparent how societal congresses were populated by multiple polities, as well as the important role that theologians played in shaping the agenda at these congresses.

So how did universities also influence the formalization of canon law? So far the organizational models of both cathedrals and guilds seemed to grant more credence to the tradition of canonical status rather than canon law. Nevertheless the new field of canon law depended upon the university as a venue in which it could develop. I will provide two examples: first, the legal reasons I which granted multiple polities authority, and which I referred to above, also gave canon lawyers a reason to define the field even more strongly. Universities had autonomous jurisdiction, allowing them to interpret matters of theology freely within their own realm; this theme is summed up well in the example of the controversy surrounding scholarly privileges in the 15th century; second, canon lawyers drew upon the dialectical method of inquiry, used in theology, to grant legitimacy to their new field.

This issue of scholarly privileges became contentious in the early fifteenth century when Charles VI confirmed all privileges previously granted to scholars (e.g., scholars were exempted from paying taxes and were often granted benefices like clergy were). University masters (lecturers) used this as an opportunity to also argue that they

should be exempt from ecclesiastical jurisdiction—and therefore free from papal interference in university matters (Kibre 1962, 179-180).

Extending the argument for tax exemption to freedom from ecclesiastical jurisdiction held significant political implications, not just for the university's autonomy within its own jurisdiction, but also for bishops and princes whose actions took place within the realm of the university. For example, the masters claimed that if the bishop imprisoned anyone from the university, those individuals should be handed over to them, not to an ecclesiastical court. Further, the university used its autonomy to conduct “foreign relations—they sent representatives to negotiations between princes and ecclesiastical authorities, despite ongoing criticism from both princes and the pope (Kibre 1962).

Issues like scholarly privilege described above were emblematic of how the melding of law and theology allowed for some experimentation regarding polity within the university to occur. Thus, in the early thirteenth century, probably in response to the increasing reputation of law in the twelfth century (Brundage 1969, 44-45), the study of Roman law was forbidden at the University of Paris; the pope was concerned that there would be a “mass infiltration” of students and masters wishing to study law, which could “taint” the study of theology (Wieruszowski 1966, 39). Yet, canon law was gradually becoming as formalized as the tradition of theological inquiry; Gratian used the dialectical approach of Abelard and Lombard, the theological masters who adopted it as a didactic method of truth-seeking.⁵⁸ This method allowed him to synthesize prior disparate

⁵⁸ At the University of Paris, Peter Abelard influenced the fomentation of dialectical pedagogy. His classrooms were nearly always full, as he sought to use questioning to inquire into truths behind theological issues. Sounding quite modern, he was once quoted saying: “Through doubting we come to inquiry, and through inquiry we perceive truth” (Wieruszowski, H. *The Medieval University*. Princeton, Van Nostrand,

canons from the early councils into coherent principles, and to do so in such a way as to infuse the new legal system with theology's authority.

That Gratian adopted the methodology of theology and did so within a climate in which law was obtaining more prestige is the most precise information scholars have regarding his links to the university system.⁵⁹ Yet, this is enough to discuss how canon law was a product of the changing academic climate in the twelfth and thirteenth centuries. For example, the role of lay canonists became much more prominent through the thirteenth century. The University of Bologna, which became the clearinghouse for the study of law in Europe, was primarily a lay academy; there, theology was added in 1365; before that the only subject was law. Scholars at Bologna played a particularly important role in interpreting the Roman law such that the Church could make use of it in the infant field of canon law (Ullman 1975, 83). This is in contrast to the University of Paris, where I already mentioned that the study of law was forbidden by the pope because of his fears regarding how it would affect the study of theology.

It was in this context of shifting priorities between law and theology, as well as experiments with authority within the university system, in which Gratian's work coalesced. It should not be surprising then that his work opens the way to multiple systems of polity and hierarchy.

1966.. 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 Wieruszowski, H. *The Medieval University*. Princeton, Van Nostrand, 1966..

⁵⁹ There are arguments suggesting that Gratian had links to Bologna, that he may have taught at a school/university, and that he was a monk. See Brundage's footnotes (47).

Gratian and the formalization of canon law

For historians of canon law, Gratian's work is the historical milestone the way the Peace of Westphalia is for international relations scholars. This is because he was the first to effectively synthesize canonical sources into a coherent body of work that could bind the *ius commune*.⁶⁰ He did this by using the dialectical approach, which I mentioned in the last section on the university. In this way, Gratian made a *substantial* contribution to the new field by collating all the material into one place (Della Rocca 1959).

However Gratian made much more than a substantial contribution to the field of canon law; rather his work reinvented the process of making law. As Ullman writes, "Canon law was the one written system of law that was created for contemporaries, grew out of the exigencies of society and was thus a living law—in this it differed fundamentally from its model, the Roman law, which by the time of its codification was in many respects outdated" (Ullman 1975, 124). Ullman's emphasis on the living quality of canon law is the distinguishing feature of the Church's new legal system. This character can be understood by explaining the difference between decretists and decretalists (Ullman 1975, 176); while decretists were historically bound because they only studied Gratian and the glosses of his works, decretalists were the forerunners of modern canon law because they built on Gratian, the glosses of his works, and papal canons which followed, at all times adopting the same method of dialectical inquiry. In

⁶⁰ Thus, scholars refer to three periods of the making of canon law: the *jus antiquum*, which was the period we have been discussing earlier in this chapter, and stops with Gratian; the *jus novum*, which is the period from Gratian to the Council of Trent (1545-1563); and finally, the *jus novissimum*, which is the period of modern canon law after Trent Augustine, T. R. P. C., O.S.B., D.D. *A Commentary on the New Code of Canon Law*. St. Louis, Herder Book Co., 1918-1922..

other words, perhaps more familiar terms, canon law relied upon precedent. Thus, if one is interested in a legal historical understanding of the canonical, Gratian is an apt marker.

But Gratian is a useful historical marker for more than just legal history, important as that may be. His work also demonstrates the continuing importance of the tradition of canonical status. To illustrate how this is the case, I discuss one principle from his work in depth, *per clericum ad populum*, which brings out questions regarding both papal and episcopal authority. Gratian, one could argue, was a *via media* between synodality and papal authority because he neither argued for the absolute sovereignty of the pope nor did he argue for the absolute sovereignty of the faithful (people or council of bishops).

Synodality and papal authority

The principle of *per clericum ad populum* from Gratian's work is illustrative of the coexisting tendencies towards episcopatism and papalism. The problem of *per clericum ad populum* was as follows: could a bishop approaching death institute his successor?⁶¹ Although some would cite the example of Pope Clement I to demonstrate that Peter named his successor directly, ultimately Gratian refutes this claim, arguing no, the election of bishops is to be kept separate from succession to a predecessor's estate. First, he says, canon law must minimize the role of familial influence; here he cites Moses who, when asked to name his successor, named someone outside his own tribe. Hence,

⁶¹ Gratian's *Decretum*, following a similar model to Justinian, was structured first by principles, and then by inquiries. After discussing foundational principles, he went on to cover special legal problems, stated as questions, to which he would then provide evidence on all sides of the issue. This is the dialectical mode of inquiry, instrumental to Gratian's ability to harmonize Roman and canon law, at work. For a summary of Justinian's structure, see Ullman 1975. Note Gratian's approach is not unlike Aquinas's either.

Clement was only legitimate because he renounced his institution and was subsequently elected by those who were elected following Peter (Cletus and Linus, respectively) (Helmholz 1996, 39-40).

Further, no one was to be elected as a bishop unless he had been chosen by the clergy and consented to by the people. Noting this, Gratian explained that the people were to be led by the clergy “so that they could be brought to understand and consent to the clergy’s choice.” This was particularly important so as to keep bishops’ elections free of secular influence, so that princes could not use these elections for their own ends.⁶² Thus, both clergy and laity had an instrumental role, though these roles were functionally different (Helmholz 1996, 42-43). In other words, the consent of the laity became a process whereby the *consensus fidelium* was established.⁶³

With the principle of *per clerum et populum*, Gratian’s reasoning primarily led to episcopal solutions for governance. At the time he was writing, there was as yet a theme of “election from below” rather than the descending theme of government that was so central in Roman law. Further, the pope was understood as the “supreme judge” and, as such, he had no role in mundane matters such as the election of bishops. And finally, there was simply a lack of bureaucracy for papal oversight to operate (Helmholz 1996, 38-39).

⁶² Princes were excluded on the grounds that if their right to elect a bishop had been granted by the church, then it could also be revoked by the church if they abused their privileges. Hence, the right was a grant, and abuse of it meant that the right went back to the grantor Helmholz, R. H. *The Spirit of Classical Canon Law*. Athens, University of Georgia Press, 1996..

⁶³ And *per clerum et populum* with regards to episcopal elections is by no means the only example of this. A central tenant of canon law stated that whenever a matter of faith was disputed, laypersons and clerics were to be consulted. The phrase used to describe this was: “Ubi de causa fidei agitur, tam laici quam clerici debent interesse” Ullman, W. *Medieval Papalism: The Political Theories of the Medieval Canonists*. London, Methuen and CO., Ltd., 1949..

But even if he emphasized episcopacy, he did not argue against papal authority in all cases. *The Decretum* stated that there must be an election for a bishop, but it did not specify the procedures for such elections. Thus, one of the first works⁶⁴ building on Gratian specifically addressed this problem by outlining several options for election procedures, leaving the choice of these procedures to the discretion of those involved in a given scenario. The options were “scrutiny,” the investigation of each candidate secretly, and then tallying the votes and electing the one favored by the *maior et sanior pars* (greater and more discerning part); the way of compromise, whereby the electors agreed to waive their decision to the majority; and by inspiration, whereby all electors fixated on a single candidate as if by inspiration (Helmholz 1996).

In practice, scrutiny was used the most often. Thus, it was this that the canonists spent more time considering therefore. Questions centered upon several problems: first, if the greater part and the more discerning part were different— which the consensus suggested they could be—how was one to distinguish them and then resolve (possible) disputes between them? Generally, the more “discerning” part was favored, which sometimes meant erring on the side of authority and merit over numbers.⁶⁵ “Sanior” was usually understood to include such merits as wisdom, zeal and a preference for the “affection of the Spirit” (Helmholz 1996, 53-54).

⁶⁴ The *Liber Sextus*, called such because *The Decretum* had five books, and this was the first work to extend Gratian’s Helmholz, R. H. *The Spirit of Classical Canon Law*. Athens, University of Georgia Press, 1996..

⁶⁵ But note that even the definition of the “greater” part was disputed. Only those eligible to vote would be counted, and individuals could be removed from this group on the basis of excommunication. Further, all those eligible needed to be present in order to count the greater part. This meant that theoretically the “greater” part could include one person Ibid..

As Helmholz points out, even though the definitions of *maior* and *sanior* could vary, making disputes quite likely, there were clear dispute resolution mechanisms. If matters were contested, either someone would be nominated by the electors themselves for the specific purpose of dispute resolution, or the dispute persisted, the decision would be handed to the person who had the power of confirmation (Helmholz 1996, 55). There was therefore an interesting juxtaposition between the ambiguity associated with the definitions of the greater and more discerning parts and the clarity of the dispute resolution mechanisms. The procedures for episcopal elections therefore raise the question: was the ambiguity regarding who could be involved in the decision a factor in increasing papal involvement?

Certainly, by the “official” Reformation of the sixteenth century, episcopal elections were much less frequent, with the papacy alone involved in the appointment of bishops (Helmholz 1996, 55). However, it was by no means inevitable that the papacy would end up with this role. A pope with supreme jurisdiction in matters of ecclesiastical election was a very different pope from one who was the supreme judge (Helmholz 1996, 38, 57). The former was the twelfth and thirteenth century vision for the papacy, while the latter was a product of evolving canonical norms of the thirteenth through sixteenth century.

The paradox was that the papalists wanted the pope to have power over temporal matters, but simultaneously not have to concern himself with them. The principle “*ecclesia continet imperium*” is emblematic here. According to this principle, spiritual power should dictate the temporal, “directing and ordering its policy, and it should not do so by taking on itself the execution of its own ordinances” (Ullman 1949, 85). In other

words, secular government was of too “mean” a character for spiritual power to deal with it; as Ullmann writes, “Herein lay the real reason why the Church, following canonistic doctrine, desired to control the policy of the civil power, but refused itself to execute secular policy” (Ullman 1949, 87).

The evolution of the proprietary Church system as a result of Gratian’s and the decretalists’ works is also illustrative. Prior to Gratian (ca. 9th century), the proprietary Church system supported episcopalism, specifying that the owner of land (who could be lay) was entitled to build a Church, appoint a cleric and grant him his *beneficium* (living) and *officium* (authority/function of office), all the while maintaining it as his property (Ullman 1975, 127). However, from Gratian onwards, a lay owner could be dispossessed and turned into its patron with specific duties towards “his” Church, making his patronage a matter of ecclesiastical jurisdiction because as a patron he was answerable to a spiritual “thing” (the Church) (Ullman 1975, 167). Here, the lay owner’s function was contained by ecclesiastical jurisdiction, like the princes affected by the principle of *ecclesia continent imperium* discussed above.

Just as the Church (the Curia Romana) underwent multiple reformations, which led to different responses throughout Europe, so too did international society undergo reformations in its modes of political organization. And the two are not unrelated: what was a period of “long reformation” for the Church was inevitably also a period of reformation for international society because the hierarchical organization of the Church, built on the idea of the canonical, was foundational to international society at the time.

Conclusions

This account has focused on how, first, apostolicity and then synodality hierarchy were threads which helped constitute the tradition of the canonical. As this discussion has illustrated, understanding this tradition is important because it facilitated the forms which polities could take on.

In the first section, apostolic authority helped define the appropriate “offices”—or governance roles—in community. I emphasized how these offices were defined and recognized only in the context of community and that this, as much as the role itself was authoritative (e.g. teaching, being a prophet, etc.), was a requirement for discerning authority.

The next section focused upon Constantine’s role in calling the first council. As Constantine was governing in a context not unlike the time when *The Didache* was written, he was responding to a highly decentralized society in which the community level was authoritative. In this context, Constantine associated himself with the bishops, whose roles were undeniably apostolic according to communities. In doing so, he began to set a precedent for imperial involvement in spiritual matters. Thus, because of Constantine’s role, the first general council and set of canons—the Council of Nicaea at which the Nicæan Creed was written—was backed by imperial authority in addition to the college of bishops.

Once councils had been established as a means of governing international society, they could take up, under the auspices of the conciliar structure, questions about how that society could be governed. Initially, these procedural questions revolved around the creed: Although Constantine had adopted the Nicæan formula for the Empire, there were

differences in how it was understood in the east and west. As I described earlier, these differences centered on the nature of Christ's person and the relationship between the three persons of the Trinity, in particular the Holy Spirit.

These theological questions reflected the society's preoccupation with questions such as, how was temporal governance infused with spiritual authority? Could temporal governance be infused with the spiritual? The final Chalcedonian formula suggested a balance between temporal and spiritual, acknowledging Christ's two natures as inseparable. These debates over the spiritual and the temporal, here playing out through the debate about the incarnation, began to suggest the tensions which would arise in the period to follow.

In the rest of the chapter, the historical incidents discussed, disparate as they may have been, shared one common thread: in various ways, the tendencies towards organization by episcopacy vs. papalism were the central points of contention. During this period, the papacy and the local jurisdictions (and therefore the bishops) were both growing in strength. The role of the pope in the Iconoclastic Controversy, as well as in the Investiture Conflict, helped pave the way for papal supremacy during the Reformation era. However, the continued autonomy at the local level also meant that conciliar means of organization were also included in Gratian's *Decretum*.

These are the threads—episcopacy and papalism—which were so central to the long Reformation. From this analysis, what we know is that both episcopacy and papalism had strong foundations in the canonical tradition, as discussed via apostolicity and hierarchy here. Both bishops and the pope could claim apostolic authority, and synodality and hierarchy were required to maintain it. In the long reformation, princes,

the Empire and ecclesiastical actors all drew upon apostolic authority, and in doing so new forms of hierarchical organization were envisioned.

Chapter 4 The Long Reformation, Part I: the Council of Constance to the Council of Basel

In the broader context of this work, the Council of Constance as the end of the Great Western Schism is a particularly apt marker for the beginning of a narrative of the long Reformation for international relations based on the tradition of canonical status. Recalling that the tradition of canonical status was constituted by apostolicity, expressed via synodality and hierarchy, this chapter narrates how canonical status of polities was changing in the Reformations period.

But the question is, why these particular councils to begin the accounts of the long Reformation for international relations? Although questions of apostolic authority never left discussions of Church polity, the Council of Constance had to struggle with these questions in a particularly concentrated way because of the Schism. This is again one of those critical junctures in which many questions coincided simultaneously: it was not new for multiple polities to be involved in governance decisions in international society, as the chapter on canonical status demonstrated, nor was it unusual to address the degree to which papal authority was important, as we saw even in the early Council of Chalcedon. What made the Council of Constance so different was the status that Rome had obtained by this time; apostolic authority was increasingly difficult to separate from the place of Rome and the office of the pope in Rome, which made the presence of three popes much more of a threat

For these reasons, through the lens of this general council, several major themes that are relevant for understanding the tradition of canonical status arose, including the following:

First, the controversy which demanded calling the Council of Constance (the Schism) was caused by three rival claimants to the papacy. As I discussed in the first chapter on the tradition of the canonical, by the twelfth century papal supremacy was becoming a much more frequently held position in international society. This was reflected in the debate over the “two swords,” as well as the official canonical position (from Lateran I) that papal authority was required to call a council. The Schism therefore hearkened back to early Church polity questions regarding apostolic authority.

Second, the Council itself demonstrated how, despite arguments for papal supremacy, multiple polities were involved in the decision-making required in order to bring the Schism to a close. The Council faced a conundrum: with three popes, how could the members of the Council be sure which one was the *true* incarnation of Peter the Apostle? Who had the authority to make such a decision? And how would international society consecrate a new, legitimate pope? Hence, the Council was faced with making a decision about the papacy *without* the papacy. In the context of this complicated state of affairs, a number of arguments about conciliar authority arose, aiming to give the council apostolic authority in order to make decisions for the *congregatio fidelium*. And considering these types of questions required drawing upon the traditions of apostolicity and synodality.

Third, the Council addressed a major heresy trial, that of Czech theologian John Hus. Hus was tried for his views on the Eucharist, which the Council claimed threatened

the fabric of the Church hierarchy. Ultimately, they believed that Hus's theological views took away too much clerical authority and granted far too much authority to the community of the faithful. Specifically, Hus's views opened the door to different interpretations of the Eucharist, which brought to light many questions about which polities had authority and how in international society. In this way, theological debates over the administration of the sacrament—which I previously discussed as one of the most shared practices of international society—were raising the same kinds of questions about conciliar and papal authority. Hus's trial is the beginning of what I call the “Eucharistic controversy,” which I continue to analyze more centrally in the next chapter on the Peace of Augsburg period, when it became even more focal for international society.

To draw attention to how these themes were drawing upon the tradition of canonical status, I first begin by explaining conciliarist and papalist ideas. These two schools of thought were arguably the fifteenth century iterations of synodality and hierarchy, the building blocks of the tradition of canonical status, and they serve as the organizing threads of this chapter.

I then narrate the Council of Constance, including John Hus's trial. At this council, conciliarist and papalist ideas framed the debate regarding how to resolve the schism present in international society. Finally, because conciliarist ideas were central to the resolution of the Great Schism, I also include a brief synopsis of the Council of Basel, the next general council after Constance, which has the historical reputation of being the council at which conciliarism was *canonically* brought to an end; however, the tradition of conciliarism continued to be relevant in the Reformations period (cf Oakley 1984).

Basel therefore serves as a marker to end the first part of the historical narrative, during which conciliarism was more explicitly on the table; however, in the next chapter focused on the Peace of Augsburg, it will be worth looking back on the period discussed here as a means of understanding how the ideas of synodality and hierarchy were changing in the sixteenth century.

The Council of Constance and the Great Western Schism

The Great Western Schism is distinguished from the earlier Schism, which divided the apostolic succession of the Church between east and west in the eleventh century. During the Western Schism, there were three claimants to the papacy (Shahan 1908, 269),⁶⁶ one in Avignon, one in Rome, and the third appointed at the Council of Pisa in 1409 (Hughes 1960), all claiming apostolic succession. In light of the increasing authority granted to the pope with Gratian's work, the problem of multiple claimants to the papacy was significant. The papacy, by the fourteenth century, was claiming its apostolic authority in much stronger terms, such that the authority of other polities was never certain. During the Great Western Schism, multiple claimants to the papacy were considered the cause of the "rupture of ecclesiastical union and unity"(Forget, 1908) (because their presence violated the medieval papalist argument that because the Church

⁶⁶ The first two claimants were in Avignon and Rome, respectively, who both made arguments about apostolic succession in order to justify their claims. The third pope, John XXIII, was appointed at the Council of Pisa in 1409 in an effort to undermine (and by habit, depose) the other two.

consisted of one body, it should be administered by one head—the papal notion of apostolic succession, as discussed in the last chapter (Bainton 1962, 158).⁶⁷

It is notable that a period called “schismatic” by Church historians involved debates over apostolicity. Although there is nothing in the definition of “schism” that requires apostolic succession to be at stake, the two occasions which Church historians officially denote “schisms” did involve the issue. Recall that Forget defined a schism as “the rupture of ecclesiastical union and unity, i.e. either the act by which one of the faithful severs as far as in him lies the ties which bind him to the social organization of the Church and make him a member of the mystical body of Christ, or the state of disassociation and separation which is the result of that act” (Forget 1908, 529). Schism, then, describes the process whereby those who belong to the institutional Church can both become severed from that institution, and in so doing they can contribute to disrupting the unity of the whole body. Thus, the fact that apostolicity was at stake in schismatic periods is indicative again of how foundational it is conceptually to maintaining societal order and authority. I will return to these ideas in more detail when I discuss John Hus’s trial.

Some background about the Schism and the Council of Pisa is necessary, since they facilitated the questions which arose at Constance; at Pisa, members of the council made the first societal attempts to end the Schism by electing a new pope who they hoped would undermine the other two popes at Avignon and Rome. In addition, Pisa was the last Church council which was called without papal convocation—making it an important

⁶⁷ This position was one of the norms in political thought at the time, as the prior chapter discussed. However, it was also encapsulated by Boniface VIII’s decretal, *Unam Sanctam*, in 1302 Bainton, R. H., Ed. *The Medieval Church*. Princeton, D. Van Nostrand Co., Inc., 1962..

breaking point from the prior tradition of emperors calling councils, as was the norm through much of the early Church's history.

This aside, I will be emphasizing Constance more as the formal starting point of the long Reformation because it was there that international society resolved the Schism by electing a new pope. And with the election of the pope, the council was recognized as ecumenical, giving it the status to address issues of reform and heresy, which the Council of Pisa did not.⁶⁸

The Council of Pisa had similarities to Constance, in both its organization and its objectives. They were similar insofar as the same types of polities were involved in the decision-making at the councils—princes, theologians, bishops and cardinals, as well as the emperor and the pope. But Constance, since it was ecumenical, as well as a much longer council, formalized the processes (though they did not become permanent) in which these polities participated, though it drew upon the examples of organization from Pisa.

As was already discussed in the last chapter, the period following Gratian's work saw many more nuanced arguments for the centrality of the papacy, particularly contra diocesan administration. These arguments took place in the context of the mid-fourteenth century economic crisis, probably at least partially caused by the Bubonic plague, which

⁶⁸ A council's ecumenical status determines whether it is formally recognized as canonical; without such status, its decisions do not have credence in reform debates. This is demonstrated in two ways: first, Pisa is not included in histories of the general councils, so its decisions have never been drawn upon regularly to make decisions about church polity. Second, because of this study's focus on the long reformation with a forward-looking eye towards contemporary international society, my intention is to provide a reformation narrative which is also forward-looking. The Council of Pisa, I would argue, was not forward-looking because it did not address contemporary reform issues as Constance did Della Rocca, F. *Manual of Canon Law*. Milwaukee, The Bruce Publishing Company, 1959, Bellito, C. M. *The General Councils: A History of the Twenty-One Church Councils from Nicaea to Vatican II*. New York, Paulist Press, 2002..

changed the demographic balance of land and labor (Epstein 1991, 207-208). For example, Teschke argues that the twelfth century economic growth and urban revival peaked in the thirteenth century when there was overpopulation and soil overuse, leading to the crisis in the fourteenth century (Teschke 2004, 95-96).

This crisis made governance needs in medieval international society even more noticeable, so the event's coincidence with deepening papalism makes less surprising the timing of the Council of Pisa. The Council then provided for a forum for the ongoing 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). 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 1994, 434).

Despite the frequency of complex debates between different types of polities at the time, since Lateran I, papal authority had been a requirement for calling a general council, so Pisa challenged the new foundations of canon law just by calling itself a council. Thus, 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 (Shahan 1908). In 1408, concurring with the theologians and the French, 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. This fact, that the cardinals and not the pope called the council, was the first reason that Pisa was unique in the post-Lateran I era. 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. These actors were grouped into nations, which were large, regional groupings.⁶⁹ In Hughes's words, "The General Council had indeed a new look. It greatly resembled a parliament" (Hughes 1960, 231).⁷⁰

At Pisa, the Council deposed the two rival popes and elected a new pope, John XXIII, 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 1960, 231). 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 hoped he would be at his election at Pisa; thus, with his reputation in decline, he fled to Florence. It was only with Emperor

⁶⁹ For example, all of Southern Europe was considered the French nation, while Germany was included in England (though a reversal occurred when numbers shifted in the direction of the Germans)Bozeman, A. *Politics and Culture in International History: From the Ancient Near East to the Opening of the Modern Age*. New Brunswick, Princeton University Press, 1994.. Ballentine puts it slightly differently. He argues that the nations were geographic subdivisions named after the dominant cultural grouping Ballentine, D. A. *Representatives and Leaders at the Councils of Pisa and Constance. History*. Denver, CO, Graduate School of Arts and Sciences, University of Denver. PhD, 1978..

⁷⁰ 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 Ballentine, D. A. *Representatives and Leaders at the Councils of Pisa and Constance. History*. Denver, CO, Graduate School of Arts and Sciences, University of Denver. PhD, 1978..

Sigismund's advice that he then called for another council in 1413,⁷¹ the Council of Constance (Hughes 1960, 264). Meanwhile, 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). The new council was therefore again faced with a decision regarding what to do about the rival popes. This problem, combined with significant dissatisfaction with the hierarchical Church, meant that the papacy itself came into question. Hence, in the period from Constance onwards, the idea of conciliar authority became much more central.

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

⁷¹ However, it did not begin meeting until the next November, which is why Constance's duration is usually listed as 1414-1418.

representatives (Schroeder 1937, 443-444);⁷² 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 (Shahan 1908; Hughes 1960, 264-265). 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 1908).

These first two challenges, regarding the definition and structure of the Council, affected when and how the members of the Council could address the resolution of the Schism and the reform agenda. In the first four sessions of the Council delegates had to decide officially whether they were continuing the Council of Pisa or starting anew. The decision had implications given that 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. 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

⁷² 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. See Schroeder, cited above.

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 1937, 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 1960, 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 1937, 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 1960, 269-270).

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 1937, 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 1960, 270). 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 1960).⁷³ The council was again subject to the authority of the papacy. And only after this was the Council able to take up matters of reform.

The question is, what happened to the trend towards organization by conciliar authority? To answer this question, I discuss the ideas behind both conciliarism and papalism, the two schools of thought present at the Council, placing them in the context

⁷³ 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 also 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) Schroeder, R. H. J., O.P., Ed. *Disciplinary Decrees of the General Councils: Text, Translation and Commentary*. London, B. Herder Book Company, 1937, Jedin, H. *Ecumenical Councils of the Catholic Church: An Historical Outline*. New York, Herder and Herder, 1960..

of the tradition of canonical status so as to understand how the society believed it could resolve the Schism.

Conciliarism and papalism

The tradition of canonical status was built upon apostolicity, synodality and hierarchy, which meant that the historical association of the Church with the first apostles mattered because it ensured that Church councils (synodality) and the organization of offices and statuses (hierarchy) within international society had legitimacy. Over time, that tradition manifested itself in the new system of canon law (thanks to Gratian's synthesis), a legal system that delineated that authority was drawn from Church polity first, flowing downwards to other polities. But before the 12th century this was not the case: emperors called Church councils; conciliar authority was the norm before Lateran I introduced the rule that's papal authority was required to call a council; and varied polities, including universities, princes, diocesan bishops, etc., had greater autonomy in international society. To reiterate my conclusion from the last chapter, the idea of papal supremacy was new in the twelfth century.

“Official” Church histories (in other words, Roman Catholic) treat the Council of Pisa and the Council of Constance as deviations from a norm of papal supremacy. The Council of Pisa, for example, is not even mentioned in comprehensive accounts of the history of general councils (Jedin 1960). When the Council of Constance is mentioned, it is only recognized as ecumenical from the election of Martin V onwards; and the agenda before the Council election is discussed only insofar as it illustrates that the Church recovered from schism (Bellito 2002). These examples demonstrate how Catholic

historians were in fact more concerned with how these councils deviated theologically; for them, tradition had changed such that papal authority was the way forward within the Reformations. Nevertheless, in understanding papal supremacy as the legitimate understanding of the canonical, Catholic historians have chosen to read the tradition of canon law in a particular way.

Tradition, as we saw, looks backwards and forwards; it takes customs from the past into the present, practicing these customs in such a way that it has implications for the future. Keeping this in mind, in light of the historical traditions that contributed to the making of canon law, the organization and understanding of authority taken up at the Councils of Pisa and Constance were not so unusual. For example, the *timing* of the three claimants to the papacy coincided with proliferating discussions about papal supremacy, but historically both Avignon and Rome could claim associations to the papacy by means of apostolicity (Drake 2000; Mullins 2008).

In the fifteenth centuries, two schools of thought flourished: conciliarism, which focused on the authority of Church councils, in some cases even over the pope, and papalism, which countered conciliarism's arguments so as to emphasize the apostolic authority associated with the pope and Rome. Theologians from each of these schools of thought were present at the Council of Constance, so an understanding of their debates illuminates the prior historical discussion of the Council. In the discussion which follows, I discuss these schools of thought, focusing on how they were the fifteenth century iterations of the tradition of canonical status (tradition looking backwards), which is particularly well illustrated with the organizational form of the nations at Constance. I also discuss how these schools of thought informed the late medieval understandings of

the Eucharist, which the Council of Constance took up through the heresy trial of John Hus, and led to the “Eucharistic split” of the fifteenth century. This is “tradition looking forwards,” for the Eucharist became the central issue in the sixteenth century.

Revisiting apostolicity, synodality and hierarchy

Scholars have argued that the monarchical (papal) and conciliar modes of authority were stereotypes of Church authority going back to the early Church because they cannot ever be found in pure forms (Avis 2006, 17). In the context of this research, we may draw a parallel between papalist arguments and conciliarist arguments to the themes of hierarchy and synodality, respectively. In essence, those who made arguments for “pure” papal monarchy and “pure” conciliar authority were in fact caricatures of the coexisting tendencies to organize polities on the basis of both synodality and hierarchy. The tradition of the canonical, from the earliest examples in the first few centuries of the Church, contains examples of communal organization (“conciliar”) and hierarchy, and these each became more defined as the tradition developed.

The monarchical model was not just embodied in the Roman Church/papacy, but was at work whenever there was hierarchy: “whenever lay people and the majority of clergy are excluded from responsibility for the affairs of the Church ... we find the monarchical principle at work,” Avis argues. Further, in the later Middle Ages, this manifested itself via the principle of *plenitudo potestatis*, which argued that temporal and spiritual power were both vested in the papacy (Avis 2006, 18). And out of *plenitudo potestatis* were derived the hierarchies of order: *potestas ministerii*, *potestas magisterii*, *potestas regiminis* (Avis 2006, 19), which correspond to the three hierarchies of order I

discussed in the second chapter, thus reinforcing the subordinate relationship of other political offices to the papacy.

However, this monarchist/hierarchical position was challenged by the conciliarist movement in the fourteenth century; conciliarists argued that “the Church as a divinely ordained visible society with appointed structures of authority and sacramentality” (Avis 2006, 22), which at first glance does not necessarily contradict the papal monarchists’ interests in order and hierarchy. Nevertheless, conciliarists believed that the fullness of this authority expressed in the whole body of the Church, and so councils, rather than the papacy were a more accurate expression of it (Avis 2006).

Both schools of thought also relied on Roman legal concepts in order to make their arguments, a fact which is a reminder of the centrality of the tradition of the canonical for both of these schools of thought. In the case of papalism, Roman legal concepts strengthened the doctrine of papal headship via sovereignty. As Wilks wrote, “The *Ecclesia* is both a single corporation itself and the greatest of a hierarchy of corporations stretching from the whole world down to the lowest political unit ... Each of these communities [kingdom, city, etc.] is at the same time as much a civil as an ecclesiastical corporation: the universal Church is the universal Empire, the kingdom is equally an episcopal province, the city is a bishopric, and the village is a parish”(Wilks 1964, 28).

Corporate ideas were just as important for conciliarists though. Rather than stressing the hierarchy of the Church via ideas of corporations though, conciliarists were interested in the general well-being of the Church: recall the quote from Gerson in the last chapter, “the mystical body of the Church, perfectly established by Christ, has, no

less than any civil, mystical, or truly natural body, the right and power to procure its own union” (Oakley 1984).

At the most moderate end of conciliarism, adherents set limits on papal authority; while on the more radical end, they stressed the authority of the whole body of the Church—manifested via general councils (Avis 2006, 39-40, 102). At the Council of Constance and the Council of Basel, there were a range of arguments expressed, running from the strong papalists to the radical conciliarists. Nevertheless, most of the time arguments at both councils were moderately conciliarist, even at Basel, the council that allegedly ended conciliarism. As Avis describes, “The Council of Basel had a seal made for its documents showing God the Father sending down the Holy Spirit on pope and emperor sitting in council surrounded by cardinals, bishops, and doctors, and bearing the legend *Sigillum sacri generalis Concilii Basileensis universalem ecclesiam representantis*. The ecclesiological emphasis had shifted from the hierarchy to the whole body of the faithful” (Avis 2006, 102).

Although the extreme versions of each school of thought argued for pure papal authority or pure conciliar authority, both relied on both traditions. Conciliarists, while they argued for more of an emphasis on the authority of the *congregatio fidelium*, still required *some* version of hierarchy in order to organize themselves— even if they preferred the college of bishops and diocesan autonomy, hierarchy was still involved. Meanwhile, papalists relied upon the corporate (or perhaps better stated, corporal) nature of international society in order for papal authority to matter. Papalists were drawing upon the Pauline tradition of community authority and embedding it within a hierarchical world order— intermingling Rome and the early Church (Wilks 1964).

Conciliarist and papalist ideas can be particularly sharply noted within two outcomes of the Council of Constance: the organization on the basis of nations and the trial of John Hus. The nations were clearly central to the decision-making at the Council of Constance; nevertheless, their status was debated as they made decisions at the Council. With the election of Martin V, the nations' status officially took a back seat on the agenda—arguably, according to papalists, they had served their purpose by electing the new pope.

However, conciliarist and papalist ideas did not disappear with the election of the new pope; rather, they fed into the debate that took place during John Hus's heresy trial, which centered upon his view of the Eucharist. While in the first part of the Council, conciliarist and papalist ideas informed discussions regarding the organization of the council itself so as to discern how to elect the pope, in the latter part of the council, the two schools of thought informed the first post-schismatic reforms, including the resolution of heresy (Hus's trial) and set of agreements with the nations, known as concordats, which were analogous to bilateral agreements between the papacy and the nations.

The principle of organization by nations

Although synodal decision-making had been de-emphasized since Gratian's work granted greater legitimacy to papal authority, precedent existed for synodal governance; this precedent even existed in Gratian, who included episcopacy in his work. Therefore, when international society was faced with the problem of three popes, it responded—and it responded with an organizational structure which its polities were familiar with: the

nations, which were built on the university system. By drawing upon an organizational model from the university system, the Council could associate this model's practices with the hierarchical authority associated with the university. By this time, there were arguments among theologians suggesting that they, as theologians, could claim *potestas magisterii*—the hierarchy of order linked with teaching (Minnich 2008, 202, 421). This, combined with the fact that universities grew out of cathedral chapters meant that when the Council adopted the organizational principle of nations, it drew upon a long tradition of teaching authority (Wieruszowski 1966, 18-19).

The nations at the Council of Constance were an organizational system that Council members drew from the University of Paris. It is important to note “nations” were not unique to the University of Paris; they were used as a means of organization at numerous European universities from the twelfth century onwards. However, each university's system of nations varied in its rules and central practices. The Council of Constance specifically adopted the University of Paris system, as opposed to any other rules associated with nations.

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. It also reinforced the hierarchical order of medieval international society through the system of nations. In contrast, the University of Bologna, the other major European university, was strongly associated with the rhetorical tradition. This philosophical distinction made the two universities archetypes for medieval organization (Daly 1961, 27).

To illustrate this point, a Bologna nation was an association of students from the same region who banded together to protect common interests (Daly 1961, 30). Thus, student members of the nations at the University of Bologna had much more say in decisionmaking, at least officially. 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 (Daly 1961, 39).

The choice to model the Council of Constance after the University of Paris system was therefore significant. The council members did not choose to follow the Bologna model, which would have been more radically conciliarist; rather, they found the more hierarchical Paris system to be appropriate. This is important because it suggests a leaning towards papalist views— even though organization on the basis of nations was a triumph for conciliarism simultaneously. While the Council granted greater authority to the nations—and thus to non-ecclesial actors present in the negotiations—the nations also decided they must elect a new pope, after which the reform agenda could be addressed.

However, the papal election and the issue of how to address reform also was a compromise between conciliarists and papalists. The conciliarists insisted that the reform agenda had to be the new pope’s first objective. Meanwhile, those who were more

papalist (the Italians in particular) agreed to this on the basis that the election took place immediately, so as to avoid further anarchy within the *congregatio fidelium*.

Examining the papal election in detail reveals the compromise that took place between conciliarism and papalism by means of the nations. Although a new pope was elected, thus restoring papal supremacy, Martin V was granted legitimacy by the Council. The Council also successfully passed *Sacrosancta* and *Frequens*, which established a process whereby the pope would be accountable to the *congregatio fidelium*. Would papal supremacy and Church hierarchy be tempered by conciliarist ideas after this? Would the *congregatio fidelium* begin to look more like the tradition of canonical status after this? To consider these questions, I turn to the trial of John Hus, whose trial was the most urgent item on the agenda to reform heresy after the papal election.

The Trial of John Hus

John Hus was a well-known theologian at the University of Prague who was tried for heresy because of his theological views of the Eucharist. For those present at the Council, Hus's theology represented a challenge to the hierarchical administration of the Church—and thus its spiritual authority. In particular, Hus argued for the orthodox position on transubstantiation—which, in the context of the Council, was not orthodox enough because it reinforced views that challenged papal supremacy; and, as the narrative of the Council demonstrated, these views were fragile since they had just been restored with the election of Martin V.

In order to understand how Hus's theology of the Eucharist led the Council to try him as a heretic, it is necessary to understand the political and theological contexts.

The academic kerfuffle in Prague

Hus began creating controversy from his early days as a doctoral student in theology. Like many theology students, Hus was a master in the faculty of arts while qualifying in theology. Once he obtained the status of *baccalauris sententarius*, which gave him the authority to lecture on Peter Lombard's sentences, he began defending Wycliffe against the German masters who taught him.

This made Hus immediately unpopular because Wycliffe was a noted heretic by this time. Being a philosophical realist, he emphasized the difference between the mystical and the pragmatic, and sought to mirror the mystical as much as possible in practice. One of the ways in which this distinguished Wycliffe from the German masters (who were primarily nominalists) was his take regarding the status of the apostles; for Wyclif, all the apostles were granted the same call, meaning that Peter was not distinguished. Since the Pope was supposed to be the descendent from Peter, association with Wycliffe was considered a threat to papal authority.

Not long after Hus began teaching Wycliffe's ideas there was a commission held at the University of Prague in response to the proliferation of Wyclifism. The commission proclaimed that after the words of consecration at the administration of the Eucharist, nothing remains of the bread and wine as bread and wine; rather, they fully transformed into the body and blood of Christ. For this reason, even using the words bread and wine were forbidden. Hus argued against this commission's policy regarding the uses of the word bread and wine—what they referred to as his focus on the accidents of the

elements—and this became the first divisive issue between him and the Council (Spinka 1965, 34).

Meanwhile, the University of Prague contributed to further division of international society when the Council of Pisa began. The French sent delegation requesting support for the Council, which had been called by their king, but the German masters remained faithful to Gregory. The Czech king, supporting the French request, reorganized the University such that the Czech nation had more votes. He also appointed Hus as the rector of the newly organized university. In response to the Czech support of the council, the German masters fled to form the University of Leipzig (Spinka 1965, 35).

By now Hus had made three significant errors: first, his Wyclifite teachings; second, his views on transubstantiation; third, his violation of papal authority by not staying loyal to Gregory with the German masters. Members of the Council of Pisa therefore required him to write a conciliatory letter to the pope, indicating remorse, which the university supported. He was temporarily out of the fray.

Unfortunately, when debates arose regarding indulgences after John XXIII issued a bull condemning King Ladislas of Naples, promising to reward all those supporting his views with indulgences, Hus could not sit back without creating more controversy: He criticized this act openly, drawing particular attention to the fact that John XXIII was selling indulgences without the usual requirements of repentance; only God forgives sins, he argued. But this time, the university would not support him (Spinka 1965, 40-41). After this, he was required to appear for his trial at the Council of Constance.

Theological divisions between Hus and the Councils

Hus's teaching focused on the central role of God's grace freely granted to the faithful. It was this that led Hus to focus on the importance of the predestinate as the Church; he argued that the *congregatio fidelium* was the predestinate—in other words, the spiritual, mystical body of Christ. As such, this was a demonstration of grace because the society's form was the manifestation of God's will, not human choice (Spinka 1965, 50).

This, however made it more moderate conciliarists wary: how was human choice to be understood if the *congregatio fidelium* was the mystical body of Christ because of grace? If only grace could ensure the rightness of human action, how was it to be recognized in practice? (Most urgently, which of the three popes was endowed with grace?) In the views of the conciliarists at the Council, Hus's position potentially shook the foundations of all hierarchical authority (Loomis 1961).

Hus's views were not as radical as they appeared to moderate conciliarists, however. His views about grace and the predestinate did not lead him to argue against all hierarchical authority, but rather the exercise of hierarchical authority. To those who questioned whether all hierarchical and sacerdotal functions were uncertain, Hus's view was (in Spinka's words): "by their fruits you shall know them." Hus was arguing that the clergy must live in accordance with Christ's teachings in order to be recognized as legitimate officeholders. If they did not lead such an apostolic life then they would be guilty of "validly" but not "worthily" upholding their offices (Spinka 1965, 56).

Such a view did not question the efficacy of the sacraments and the hierarchy which administered them; an unworthy priest could absolve sinners and administer the

Eucharist. The sacraments, it would seem, could not be diminished in any way by an unworthy cleric any more than the *congregatio fidelium* could cease to be the spiritual body of Christ, even if those exercising authority within the administrative Church did not do so legitimately.

Even so, Hus did argue that Christ's teachings were a model for the apostolic life—and that all Christians should live up to their calling. It so happens that many of the hierarchical Churches practices were preventive of ordinary Christians (and not so ordinary Christians) living up to their calling: indulgences, for example, did not reinforce living in the apostolic life, since they did not always demands repentance; the laity could not preach or receive both elements of the Eucharist either. Hus argued that they should be able to do both.

Hence, in Hus's theology there is a paradox: those leading the apostolic life could only be recognized as doing so after the fact, while the universality of God's grace suggested that no one could be required to take specific actions (e.g. buy indulgences). For Hus's opponents, faced with the particular problem of three claimants to the papacy and a society to restore order within, Hus's teachings looked like the society would be in an eternal conundrum, unable to be establish which pope was legitimate, or to use institutional authority to resolve controversy—it would all fail because it was an exercise of human will.

But again, Hus neither opposed hierarchical authority; nor did he argue for an expanded role for the laity because he was interested in undermining Church authority. His views on particular policies were secondary to his teachings on grace and the predestinate. In other words, when he argued that the laity should be able to preach, it

was not because he believed in a “priesthood of all believers.” Rather, it was because he built on theorists like Marsilius of Padua and William of Ockham who saw a distinction between the essential (derived from God) and the accidental (that of human invention). For example, what was “essential” was that some were called to offices of the Church to exercise sacerdotal authority. However, the distinctions between offices— that is, bishops, priests, deacons, etc.—were accidental.

Those present at the Council of Constance did not want to dwell on the accidental; they did all they could to avoid it. Unfortunately, the existence of three claimants to the papacy required dealing with the accidental; because even if there was a legitimate pope among the crowd, they had to choose who to recognize and how to do so. This was all rather paradoxical, given that with the election of the new pope, the Council attempted to wipe the slate clean by declaring itself ecumenical after the election, but not before. Yet, the ecumenical status— accorded to Constance because it was again under the auspices of the pope— was dependent upon the conciliar decree *Sacrosancta*.

Focusing on the accidental in late medieval international society meant focusing on how society fallen away from God. The idea that something could be derived of human invention went against the logic of the time— if it was derived, it was derived from God. And this applied to everything tangible: human organization, and all objects used by human beings. Thus, the commission which forbade the use of the word bread in reference to the Eucharist was reinforcing the notion that the hierarchical administration of the Church had to be a mirror of divine order. Both referring to bread and referring to an errant Pope were equally problematic; referring to bread drew attention to the human invention of it, rather than the fact that it was Christ’s body.

This is why Hus's views on the Eucharist were central to his heresy trial, and emblematic of all his other views which challenged hierarchical authority. As I have mentioned, at the time of the Council, Church officials had taken a harder line⁷⁴ 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 (Spinka 1965, 34).⁷⁵

“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 accident of the bread and the wine too much—so much so that using the word “bread” was problematic.

The Council's fixation on Hus's position on the Eucharist is perhaps less surprising if one considers that by the fifteenth century there was a new split between the

⁷⁴ As a result of the commission, church officials took a harder line on the doctrine of transubstantiation (as described above).

⁷⁵ Note however that Hus's position on transubstantiation was arguably within the bounds of Lateran IV (1215), the first council to discuss the doctrine of transubstantiation.

Eucharist as an (administrative) sacrament and as the mystical body of Christ. For most late medieval thinkers, these two ideas were not in tension; the idea of the “mystical body” and “ecclesiastical polity” mutually reinforced one another. As Oakley puts it,

...the notion of the Church as the *corpus Christi* had been intimately linked with Eucharistic doctrine, in that it is the sacramental Body of Christ that nourishes the faithful and fosters among them a true unity so that they remain with Christ and members of his body (Oakley 2003, 117).

However, by the Carolingian period, these ideas became divided; the term *corpus Christi mysticum* came to refer to the sacrament of the Eucharist alone and not to the Church as a whole anymore (Oakley 2003, 117-118). What had changed, then, was the starting place: instead of beginning with the body of the faithful (which was the body of Christ), which the Eucharist then became (by means of the Holy Spirit), the split meant that one would start with the administration of the sacrament itself, from which the members of the body of the faithful partook. Therefore, *who* partook in the sacrament⁷⁶ and *how* had varying implications for the nature of the political community. This issue will be discussed further in the next chapter. However, what is important here is that, in the context of resolving the Schism, a heresy trial over a matter of theological doctrine became essential restore the integrity of the *congregatio fidelium*.

Recalling again that a Schism is the “complete rupture of ecclesiastical unity,” and by this time the specific administration of the Eucharist, as well as the particular form of the hierarchy of the Curia Romana, were becoming matters of vital importance to the maintenance of international society. Notwithstanding the external variables which might have put pressure on the Church to tighten its authority in this manner (an interesting

⁷⁶ And note that administration and regulation of the sacraments was a critical part of what historians call the “Counter-Reformation.” E.g. the Tridentine Mass approved at the Council of Trent.

question for another context), what is noticeable is that members of international society *believed* that understanding Hus's positions as heresy, and addressing them in the manner in which heresy was acceptably addressed at the time, was necessary to resolve the Schism.

Thus, the controversy over the Eucharist which arose at Hus's trial became the catalyst for further discussions about the extent of the Council's authority in the particular historical circumstances, as well as broader issues about who belonged to the *congregatio fidelium* and how their participation in it should be regulated. In particular, Hus's view on "consubstantiation," focusing much more on the mystical body of the Church, as well as his interest in administering the sacrament to laypeople, theoretically allowed for a much more inclusive Church universal. It was therefore the nature of this Church universal that the conciliarists debated as they put Hus on trial.

Of the conciliarists who tried Hus at the Council, Jean Gerson's views were probably closest to Hus's. He emphasized that Church was united to its head, Christ, via the Holy Spirit, making it more than just an administrative body (Spinka 1965, 18).⁷⁷ This had implications for the Council's authority, as well as the broader body of the faithful, but only implications. This becomes especially clear when one notes that he expressed caution regarding challenging papal authority; at the Council of Pisa, he urged against deposing the rival popes until it was clear that their nations no longer considered them legitimate (Spinka 1965, 18). But this again was an interesting balance between a conciliarist and a papalist position—while he was reluctant to challenge papal authority, his justification for not doing so was on consulting the state of the *congregatio fidelium*.

⁷⁷ Or, more specifically, more than a corporation governed by canon law.

The next most conciliarist of Hus's judges was Francesco Zabarella, the cardinal deacon of Florence; he was much more interested in the maintenance of the hierarchy of Church offices, and he saw the Council as an instrument to regulate these. As such, his view was that the highest level of the hierarchy, which was still legitimate, should preside over the Council: i.e., first, the Council would be presided over by the pope; if the pope was not legitimate, cardinals; when cardinals do not rise to their duty, it would fall to the emperor as the only other representative of the entire populace (Spinka 1965, 19). Similar to Zabarella, Cardinal D'Ailly argued that the pope had supreme authority in the Council but not *over* it (Spinka 1965, 17). In such a scenario then, the pope retained his functional status as the supreme authority (otherwise the Council could not be recognized as ecumenical), but the Council had the authority to make decisions as the body most reflective of the *congregatio fidelium*.

Zabarella's and D'Ailly's arguments had a shared problem: though they both recognized a limited regulatory role for the Council, this was only relevant when the legitimacy of the Church hierarchy was in question. The question for them was, when is this? And if they were reluctant to question papal authority in order to establish when such a situation was in fact taking place, then a council called in the absence of a papal bull could always be a potential cause of schism. Unlike Gerson, Zabarella and D'Ailly do not make more foundational theological arguments about *why* the Council had authority (the Council represents the mystical body of Christ); instead, they made pragmatic arguments focused on how the Council should exercise its authority once it has it.

Despite the fact that the theological differences between Hus and the conciliarists at the Council were subtle, Hus's views were the ones which were held to account. It would seem that his views were not uniquely objectionable, but rather they were just different enough from the conciliarists' views that he was considered a heretic. There are likely a number of reasons for this. First, by the time of Hus's trial, conciliarism was already losing ground; although it took conciliar authority to elect a new Pope, as soon as he was elected, conciliar arguments were not required. In the post-schismatic climate, conciliarists had to be careful so as not to appear radical themselves— in this view, Hus was a good scapegoat.

There was also the problem that there were growing Hussite movements, and these so-called Hussites did not necessarily share Hus's orthodoxy. They've reflected badly on Hus, whose worst crime may have been being a conservative theologian who was outspoken in political affairs. Given the reputation of the Hussites, the conciliarists wanted nothing to do with them; so, similarities between them and Hus aside, they had to back away from their theological views at his trial.

The Council of Basel helps explain this.

The Council of Basel

The Council of Constance had nominally solved the Schism via its election of Martin V; however, the period following Constance was one of increasing discontent with the day-to-day administration of the Church. In particular, the bishops and the emperor argued that the growing strength of the Hussite movement made another council imperative. Coinciding with these events, the papacy was also required to call another

council based on the decree *Frequens*, which mandated another council five years after Constance and then seven years after that (Hughes 1960, 274-275).

Hence, in 1423, Martin V called a council at Pavia, which was brief, but nevertheless fulfilled *Frequens*. Then, in 1431, Eugene IV (by this time Martin V had passed) called the Council of Basel. Papal disinterest was parallel in both of these councils: in the former case, Pavia never progressed beyond debates regarding papal-conciliar relations, while in the latter case, the pope wanted to dissolve the council in the first couple of sessions. However, the council was in a strong position to claim authority over the pope because of the decree *Haec Sancta* (also known as *Sacrosancta*). It therefore “summoned” the pope to take his place at the Council so that the council would have the full authority to proceed (Hughes 1960, 276).

The pope then passed a bull stating that the Council could negotiate with the Hussites, but simultaneously he urged that the Council be dissolved and another council begun (in Bologna in 1433). However, the council members argued that general councils were infallible and therefore could not be forcibly dissolved; the pope countered that the council in Florence was a continuation of the council at Basel. This was not adequate for the Council: the papal position regarding the continuation of Basel still suggested that it had been dissolved in order for its agenda to be carried into the new council at Florence. In the process of their disagreement, the Council revoked the pope’s right to appoint bishops and abbots (Hughes 1960, 277).

On December 15, 1433, the pope wrote a bull acknowledging that the dissolution bull of 1431 had been the source of all the controversy. The Council declared it was satisfied with this outcome in February 1434. And in June 1435, the Council renewed the

Council of Constance's position regarding the superiority of conciliar authority; it was only after this that the Council began to take up reform questions (Hughes 1960, 277-278). Why did the Council wait a year and a half after the pope's bull to reinforce its superior authority, particularly after declaring its satisfaction with pope's decision a year before? The historical record is not clear on this. What is clear is that after renewing conciliar authority, the Council intended to take up reform questions, which at the very least suggests that it needed to state its authority clearly in order to proceed with reform.

However, it was precisely as conciliar authority should have legitimized the reform agenda that another issue arose: the Greeks wanted to seek reconciliation of the schism with the west. But they would *only* negotiate with the pope, which gave the pope an opportunity to move the site of the council and reinforce his own authority. The Council members attempted to "suspend" the pope from his functions and then to depose him, calling again upon *Haec Sancta*⁷⁸; but Eugene IV responded that decrees from Constance were null because they were under John XXIII, who was not a legitimate pope (Hughes 1960). It was this decision that arguably brought an end to conciliar authority in general ecumenical councils, and why scholars tend to argue that Basel was the "end" of conciliarism (Oakley 1984, 112).

Yet, conciliar ideas did not disappear; they continued to exercise influence within councils, making it easier for non-papal actors to claim authority in almost all contexts excepting superiority over the council itself, as well in the context of other types of congresses—e.g., imperial diets and negotiations over confessional politics, which were

⁷⁸ The decree *Sacrosancta* from the Council of Constance also goes by the name *Haec Sancta*.

becoming increasingly more important in international society. These issues will be discussed further with the Augsburg period, the last section of this historical narrative.

While Basel did not mark the end of conciliarism, it did mark an important turning point for papal authority. After the Council of Basel, in the context of the fall of the Byzantine Empire to the Turks, Pope Pius II passed the bull *Execrabilis* (in 1459), which forbade appeals to papal decisions by councils. As MacCulloch argues, “For a pope contemplating this disaster [the crisis in the East] with horror, now was not the time to risk the future of the West by collective leadership that might be divided and uncertain (MacCulloch 2003, 38).

In his bull, the pope did specifically denounce *conciliar* authority; he did not just reinforce his authority, but rather he countered that papal authority was superior on the basis of its right apostolicity. The text of the bull demonstrating this was as follows:

The execrable and hitherto unknown abuse has grown up in our day, that certain persons, imbued with the spirit of rebellion and not from a desire to secure a better judgment, but to escape the punishment of some offence which they have committed, presume to appeal from the pope to a future council, in spite of the fact that the pope is the vicar of Jesus Christ and to him, in the person Peter, the following was said: “Feed my sheep” [John 21:16] and “Whatsoever thou shalt bind on earth shall be bound in heaven” [Matt. 16:18]. Wishing therefore to expel this pestiferous poison from the Church of Christ and to care for the salvation of the fold entrusted to us, and to remove every cause of offence from the fold of our Saviour, with the advice and consent of our brothers, the cardinals of the holy Roman Church, and of all the prelates, and of those who have been trained in the canon and civil law, who are at our court, and with our own sure knowledge, we condemn all such appeals and prohibit them as erroneous and detestable (1905).

It is significant that this bull specifically argues for papal apostolic authority using the scriptural basis for absolution in the context of confession. Later, reformers would use this same theological basis to argue for the distinction between political and spiritual authority (Rittgers 2004)—a distinction which, for Pius II, was an unknown because the

traditional medieval papalist view justified his spiritual authority over all matters in the world (*ecclesia continet imperium*) (Ullman 1949, 85). Or as Avis explains it: “The spiritual and the temporal were twin aspects of a single, unified Christian commonwealth in which the spiritual dimension embraced civil life and the temporal dimension was Christian” (Avis 2006, 25).

Schism and the Eucharistic controversy

Earlier in this chapter, I referred to the definition of schisms as the “complete rupture of ecclesiastical unity,” and noted that those circumstances that the Church has labeled schismatic involved differing claims regarding apostolicity. Forget, whose definition I referred to, also adds the point that schisms and heresy often go hand in hand, as those seeking to resolve a schism often inflated heresy charges (Forget 1908). The line between the two is difficult to draw; while heresy “perverts dogma,” schism “separates from the Church.” Adding to this, Forget writes “schismatics deviate from the fraternal charity, although they believe what we believe” (Forget 1908). I will first explain how the Eucharistic controversy was emblematic of the Schism, and then return to the distinction between schism and heresy with the historical analysis.

With the Eucharist’s status as a mystery and a contract, controversies over the sacrament’s administration could of course be either perversions of dogma or acts which separate from the Church. As I explained in the section in the last chapter on the Eucharist as contract, the sacrament was the enactment of the personhood of Christ, and in partaking of it, the Church was also transformed into the body of Christ. Given that the

Eucharist was seen this way, controversies over its administration meant that the body itself was ruptured, as the definition of schism suggests.

Another characteristic of schisms is that they have historically tended to undermine papal primacy. In the preceding chapter, I emphasized that schisms raised questions about apostolic authority. This is certainly the case, and it is a useful point in the context of comparing the earlier period discussed in the chapter on canonical status with the long reformation. However, when considering how the particularities of the long Reformation period contribute to modern international society (especially *cuius regio, eius religio*), the point which is more relevant is that schisms have historically challenge papal primacy. This is because papal primacy was a new feature after Gratian, and it peaked in the long Reformations era.

As I discussed previously as well, papalist arguments took place in a context in which discussions about apostolic authority were frequent, and these discussions resulted in debates over the organization of hierarchy within international society. Hierarchy, as we already learned in the last chapter, had a particular theological status, so questions revolved around how hierarchies should be organized so as to maintain apostolic authority. Hence, disruptions in the hierarchical administration of international society contributed to the schismatic character of the period.

And disruptions to the hierarchy were occurring via the administration of the Eucharist. For example, during the long Reformation era, contests over the hierarchies of order and jurisdiction at least partly took place through debates over theological differences regarding the Eucharist.⁷⁹ According to Oakley, the term *corpus Christi* had

⁷⁹ Thus, it is important to note that those belonging to the hierarchy of order *also* necessarily had powers of jurisdiction, but not vice versa. Rights of jurisdiction included legislative power (the right to construct and

become intertwined with Eucharistic theology, “in that it *is* [emphasis mine] the sacramental Body of Christ that nourishes the faithful and fosters among them a true Unity so that they remain with Christ and members of the body” (Oakley 1984, 118). In other words, there was no distinction between the sacrament and those who participated in the sacrament—who were the members of the body of Christ, in medieval thinking.

However, Oakley also contends that during the fifteenth century, two different iterations of the *corpus Christi* became distinct from one another: the *corpus Christi verum* (true body of Christ) and the *corpus Christi mysticum* (mystical body of Christ). He argues that the *corpus Christi verum* was becoming associated with the Eucharist alone, while the *corpus Christi mysticum* was becoming associated with the Church. In Oakley’s words,

In their [theologians and canonists’] anxiety to emphasize the real—as opposed to the mystical or merely spiritual—presence of Christ in the sacrament, theologians had begun to designate the Eucharist not as the ‘mystical’ but as the ‘true body of Christ’ [*verum corpus Christi*]. As a result, the term *corpus Christi mysticum*, having been transferred now to the Church and its original sacramental and liturgical affiliations severed, fell victim to a progressive secularization (Oakley 1984, 116).

sanction laws), judicial power (the right to judge how the faithful observed laws), coercive power (the right to enforce and punish), and administrative power (the right to provide for the proper celebration of worship).⁷⁹ From the Church’s perspective, the ideal scenario would have been that those actors within the hierarchy of order would also have the power of jurisdiction. However, in practice this was not always the case. To understand why this was the case, consider the three powers of the Church, associated with the hierarchy of order: *potestas magisterii* (the power to teach), *potestas ministerii* (the power to administer the sacraments), and *potestas regiminis* (the power of jurisdiction). One of the problems which arises in looking at these three orders is the change in the meaning of “teaching” and “ministering” even in the course of the historical period under consideration. By the late medieval period, *magisterium* was often accorded to lay and clerical doctors of theology Minnich, N. H. *Councils of the Catholic Reformation*. Surrey, Ashgate, 2008.; further, ecclesiastical jurisdiction was redefined in this period. I will address these complexities in later chapters. To start, however, the orthodox position must be clear: *potestas magisterium* referred to the power to preach the Word, which was accorded to those ordained. *Potestas ministerii* referred to the power to administer the sacraments—no more. This, too, was blurred in the Reformation period, as Luther introduced the idea of the priesthood of all believers. Finally, *potestas regiminis* referred to power to make laws and govern to maintain order.

In other words, referring to a separate *spiritual* body suggested that the Church (or potentially another polity) could draw its authority to be considered such without direct association to the sacrament of the Eucharist. In the context of Hus's trial, this split in Eucharistic theologies had political implications for the organization of society. However, in the long view of history, this Eucharistic controversy implied much more than hierarchical reorganization: it threatened the moral vision of late medieval international society.

The Eucharist was a contract in which all members of international society were physically bound. During Hus's trial, his colleagues were outraged by the use of the word "bread" because it undermined the physical presence of Christ in the Eucharist. This demonstrates how the underlying moral vision of late medieval international society depended upon the society being a material embodiment of its spiritual basis. I say "embodied" because the organization of late medieval international society based on apostolicity, synodality and hierarchy was not an expression of underlying norms; acts taken in international society were not symbolic. The pope was the vicar of Christ because he could physically trace how his authority was descended from Peter, the first apostle, by the laying on of hands. Literally each descendant of Peter had to physically pass on his authority to the next—like a blood relationship.

Thus, the Eucharistic controversy which Oakley points to was threatening because it suggested that the spiritual and temporal could be distinct from one another. If the *corpus Christi verum* was the sacrament and not the *congregatio fidelium* as well, then perhaps the body of Christ belonged inside the walls of a Church and not in the quotidian doings of society. This suggested that the relationship between the society and the body

of Christ could be severed. What, then, happened to papal authority and to individual believers? Could believers only be members of the true body of Christ by partaking in the sacrament (the true body), which was administered by the mystical body (the Church)? This was the take of the Council of Trent, which, a century later, tightened liturgical practices. However, the Council of Trent was but one response to the problems raised by the Eucharistic controversy. The problem was, once it became possible to separate “true” and “mystical,” the entire fabric of incarnational politics began to unravel.

Conclusion

In considering how the Council of Constance and the Council of Basel contributed to the making of a long reformation—particularly a long reformation with international relations in mind—it is worth recognizing that historians have often discussed how conciliarism was important to shaping the modern era; in particular, they have taken a special interest in these councils’ organization on the basis of nations, speculating upon how this governance model influenced the constitution of parliamentarianism. In other words, these arguments understand Church councils as partially constitutive of later governance practices within the nation-state (Tierney 1966).

Such accounts give an alternative view of the nation-state on the basis of Church tradition. However, such accounts are still centrally focused on tracing the path towards the formation of the nation-state. In this account, the organization on the basis of nations was an illustration of the ongoing relevance of the tradition of the canonical. Members of the council drew upon one of the three hierarchical orders—the authority to teach—and the polity built upon that hierarchy of order, the university. It was drawing upon the

authority of universities that gave the nations authority at the Council of Constance (and Pisa). And the nations were the ones which successfully (or not so successfully) elected a new pope. Further, although the nations were not the central theme in my discussion of John Hus's trial, it is important to note that they remained relevant through the heresy trial. We know this because theologians still had a significant say in the discussions, and this was as a result of the authority of nations, since nations were composed of princes, theologians and the plenipotentiaries of princes (Minnich 2008).

As I have mentioned previously, this study is interested in and how the tradition of the canonical was formative of *myriad* polities in international society. Thus, agreeing with historians who argue that conciliarism is especially central in this era, I have focused on conciliarist (and their counter-arguments, papalists) ideas in this chapter, but I will take a different approach in considering how they contribute to the constitution of modern international society.

The difference in my approach lies in the addition of the "Eucharistic controversy" as an analytical concept. I would go so far as to argue that if we consider the nations outside of the context of a society which was held together by sacraments like the Eucharist, it becomes very easy to slip into unilinear historical thinking regarding the path from nations of Christendom to the modern, territorially-bounded nation-state. The nations at the Council of Constance and Basel were associations of believers governed by the unique mix of local, ecclesial, familial, royal and local ecclesial authorities. This kind of "mixed governance" that cohered on the basis of particular local customs and by faith was the norm in medieval international society. A parallel to the nations at the society level took place at the level of the city: confraternities. Confraternities were associations

of believers in a city (from multiple economic and social classes) who did everything from administering hospitals, taxes, burials and processions; as such, they played a central role in religious civic life. But at their basis, what held together their shared work ethos was their practice of shared worship (D'Andrea 2007).

The nations were the similar to confraternities in that they demonstrated the ordinariness of mixed governance *and* they relied upon the sacraments as binding practices of international society— in other words, their own governance of that society. Notice that those themes, the nations as well as the controversy surrounding the Eucharist, depend upon corporational ideas of the community. Recall from the prior chapter that the idea of “corpus Christi” was first used by the Carolingians as a call to reunify princely domains.⁸⁰ Read in this tradition, the nations were as much *corpus Christi* as the Eucharist and the papacy were. In fact, before the 15th century the corporate nature of the polity could not be separated from the idea of the body of Christ any more than a sacrament such as the Eucharist could be. The two were inseparable; this is probably why Oakley argues that there was nothing contradictory about the idea of ecclesiastical polity (Oakley 1984).

In the next chapter, the chasm driven by the Eucharistic controversy and the authority of princes are my starting point, for in the sixteenth century these led to the separation of politics and religion-though not the separation of Church and state.

⁸⁰ In the reign of Louis the Pious the term *corpus Christi* appears in documents when the Empire was threatened. Therefore some scholars have argued that reference to the body of Christ were indicating an adherence towards their priority of the community Burns, J. H., Ed. *The Cambridge History of Medieval Political Thought, c. 350-1450*. Cambridge, Cambridge University Press, 1988..

Chapter 5 The Long Reformation, Part II: The Era of Confessionalization in International Society

The period in which the Peace of Augsburg took place has been of interest to both international relations scholars as well as Church historians. As I discussed in the introduction, IR scholars have taken interest in Augsburg because of the policy of *cuius regio, eius religio*—which they argue is an important normative precursor to the modern, territorial nation-state. Church historians, meanwhile, have considered Augsburg insofar as it is part of the reformation process, facilitating the development of new belief systems, and therefore contributing to the splintering of the old Church. As I have indicated previously, both of these types of accounts are valid, but they are not the approach that I take in this research.

In the sixteenth century, late medieval international society begins to look “modern” in our eyes if we glance at the era quickly—but it was not an inevitable or rapid transition. Secular polities, individual rights, sovereignty and territoriality did not emerge fully formed from the policy of *cuius regio, eius religio* as if from the head of Zeus. Instead, one significant boundary was drawn—between religion and politics—an arena that had previously been a coherent fabric because theological and political questions were indistinct.

I do focus on the policy of *cuius regio, eius religio* in this chapter, but I argue that it is a policy that demonstrates the centrality of “confessional politics” as an outcome of

the Peace of Augsburg—an analytical category that keeps our attention on the essential conservatism of the era of the long reformation. Ultimately, the policy of *cuius regio, eius religio* was about defining religious-political jurisdiction on the basis of new confessional lines, or lines based on differing beliefs about basic Church doctrines. As MacCulloch explains, 15th and 16th century Europe recognized regions and jurisdictions with a common cultural heritage—not nation-states (MacCulloch 2003, 42).⁸¹

This new boundary between politics and religion was critical in two ways: first, it introduced the idea that a religious issue could only affect a small part of the international society—which threatened the notion that the international society as a whole was the *ecclesia*; second, it was physically experienced insofar as princes had authority within geographic jurisdictions. Ironically, in both cases, it is possible to see how Reformations Europe was learning lessons from the “Romanness” of the old believers.

The fixation on papal supremacy since the thirteenth century attached the office of the pope specifically to the location of Rome through the positive law mechanism available at the time: canonical decree. Before 1215, the bishop of Rome had been *primum inter pares*— a distinctly different role from the pope in the post- *Unam Sanctam* world. In an analogous manner, the policy of *cuius regio, eius religio* was the positive law version of princes’ customary roles for many centuries; in practice, princes had always had much say in their jurisdictions’ regulations of practices in faith communities (which, we must recall, included governance structures in all areas since the theological

⁸¹ Brady et al add that it took another century after the Augsburg Peace to open the door to nation-states which were neutral in religious matters Editors, T. "The Politics of Religion: The Peace of Augsburg 1555: A Roundtable Discussion Between Thomas A. Brady, Euan Cameron and Henry Cohn." *German History* 24(1)(2006): 85..

and political were inseparable). Subsidiarity was the norm, though perhaps not always the rule.

Few of the reformers or reforming princes sought to be a new faith. They were called the “new believers” because they were revisiting tradition so as to best understand how to live out their faith (or at least, how to organize society) in the then present. It is difficult to imagine that any of them would have thought that their actions might open the door to the secular Europe of the future.

Instead, they were drawing on the tradition of the canonical as usual— and they were doing so in the context of an international society in which papal supremacy had become the norm, and controversy over the Eucharist was furthering the schismatic character of the society. I begin my discussion with the Hussites movement, which had been growing since the Council of Constance, because it draws attention to the ongoing controversy surrounding the Eucharist and papal supremacy. I then proceed with the historical narrative of the period of confessionalization, which demonstrates how the politics— religion divide contributed to constructing the boundaries inherent to modernity.

The Hussite movement

Hus was burnt at the stake, as were Wyclif’s remains, but the legacy of both of them lived on first in the ongoing Czech reform movement and second within the thought of the reformers, especially Luther (who referred to Hus directly).⁸² In particular,

⁸² In a debate at the University of Leipzig, Luther argued in conciliarist terms, calling Christ the head of the Church rather than the pope; he also made the “fatal statement”: “I am sure of this, that many of Hus’s beliefs were completely evangelical and Christian.” After this, Luther was condemned by a papal bull—

members of the Czech reform movement and the later reformers shared some similar practices regarding the administration of the Eucharist—and these shared practices had an effect on the direction of international society towards introducing boundaries.

Members of the Czech reform movement celebrated the mass in Czech and insisted that laypeople receive communion in both elements (Heal 2003). These were both practices that reformers (of almost all stripes) concurred with. Arguably the Czech reform movement set an important precedent for the reformers being able to publicly take on their positions regarding the Eucharist.

This is because the Czech reform movement began to take institutional form in the late fifteenth century: Rome recognized a distinct Hussite Church, whose members even found a way to ordain their own bishops by sending candidates to Venice, which was independent enough to be involved (Heal 2003). Meanwhile, the more radical Hussites, known as the Bohemian Brethren, adopted an anti-violence stance and rejected the idea of transubstantiation (Heal 2003)—a position more like late Anabaptists.

In both cases, the practices the respective Hussites adopted within the Eucharist ran parallel to their political views. In the case of the Hussite Church, members retained more or less orthodox theology regarding transubstantiation—and while they had to seek outside Rome to ordain their bishops, they nonetheless went out of their way to maintain a hierarchical order. On the other hand, the radical Hussites were more concerned with the harm the Church had done by means of controlling its administration of the Eucharist,

which he ceremoniously burned at the gates of Wittenberg MacCulloch, D. *The Reformation: A History*. New York, Viking, 2003..

so they sought instead to reinforce the spiritual so that hierarchy was no longer an end in itself.

In a society that saw itself as the body of Christ, parallels between political organization and sacramental theology were neither surprising nor new. For example, Elwood argues that the Eucharist influenced the way ordinary people understood the relationship between politics and society, especially the sacred and the secular (Elwood 1999). And, as he adds, from the thirteenth century onwards, clerical privilege to handle and display the host proliferated (Elwood 1999). But it was the exaggeration of clerical privilege that was leading towards something new—for example, during this time, holding up the consecrated host for the congregation to see became customary—a practice which reinforced the Eucharistic split that I mentioned before, since it separated the sacrament (as an object) from the congregation as a whole (the subjects). Thus, while the Eucharist had been a contractual practice that held together the society as a coherent whole, in late medieval international society it was starting to introduce boundaries that divided the whole into parts.

Reforming ideas in the sixteenth century sharpened the Eucharistic split that was already starting with fifteenth century conciliarism by giving the faithful different ways to identify with a practice that had previously been the unquestioned social-spiritual fabric. But before reforming ideas did this, conciliarism in the context of Hus's trial did its part with the multiplicity of challenges to papal (Roman) authority by means of varied Eucharistic theologies, which justified different arguments regarding societal governance. For example, Elwood argues that the case for royal unction was established via Eucharistic theology. Just as the Eucharist was a vehicle of divine power in the temporal

realm (because it gave material form to the spiritual), so royal authority was distinguished as a human form of divine authority (Elwood 1999).

Justifying royal authority—or absolutism—was just one political form that “evangelical” Eucharistic practices justified. German princes who had long considered themselves *Landesvater* (patriarch of the jurisdiction, a lineage arguably derived from Romanness)⁸³ were able to use that tradition and the practices of the new believers to establish “evangelical” jurisdictions within the Empire. As I will discuss in the historical narrative later, some princes were more interested than others in forming an evangelical Church; but regardless of whether they wished to do so (and split from Rome), they did challenge the Church’s authority by claiming they had more say over the faithful’s practices in their own jurisdictions than Rome did.

I have been dealing thus far with the legacy of the Hussite movements and its effect on the period of confessionalization I cover here. While the Hussite movements had a significant role, Hus’s particular influence—which was central to some of the discussion in the last chapter— was also important. And Luther, like Hus, was highly orthodox, in the sense that he valued the tradition of the Church that preceded the recent development of papal supremacy. And also like Hus, Luther’s orthodoxy differed from his more reforming followers.

⁸³ Ullman (1975) argues that the German princes and emperor were especially able to draw upon Roman law because of the genealogy they claimed running back to the Caesars. This, taken in the context of the late medieval worldview, with its contemporary focus on canon law, meant that terms like “Landesvater” could become imbued with divine overtones. Another excellent source on Roman law and its interpretation in international society is Constantin Fasolt, C. Hermann Conring and the European History of Law *Politics and Reformations: Histories and Reformations. Essays in Honor of Thomas A. Brady, Jr.* C. Ocker, M. Printy, P. Starenko and P. Wallace. Leiden, Brill, 2007..

This did, of course, set Luther (and Hus for that matter) at odds with the Church in his time in a way that forced him to be reformer. And in the interest of precision, Luther did depart further from canonical norms than Hus did; his doctrine of “real presence” further exaggerated the Eucharistic split— for with real presence the sacrament’s materiality became a symbol rather than an incarnation of the body of Christ. Also, his doctrine of the two kingdoms—separating spiritual and temporal worlds— probably strengthened secular authority (Avis 2006, 116). Yet, the Augsburg Confession was also a document which sought to establish the overlaps between the old and new believers, especially demonstrating how Luther’s ideas were consistent with ancient tradition.

The Era of Confessionalization

During the historical era included here, which runs from the Augsburg Confession (1530) to the Augsburg Peace (1555), I argue that these policies were outcomes of the societal congresses held during this time because the debate was essentially a confessional one: it centered upon theological differences surrounding the Eucharist, which held implications for societal organization. This debate, which I call the Eucharistic controversy, is this centerpoint which provides further credence for the “confessionalization” lens I adopt here, since religious practice was playing a defining role in influencing political identities: recall my prior discussion of sacraments as contracts.

I begin with the Augsburg Confession because it was the first in a series of European confessions that began to define these new jurisdictions and, as such, it served

as something of an agenda-setter for international society. These confessions opened the door to a number of societal congresses that sought to resolve differences emerging from following these confessions— closing with the Augsburg Peace in 1555. Looking retrospectively, it is possible to see that the Augsburg Peace was facilitated by the earlier confession, and that its policies articulated a “political” solution to what had earlier (at the Confession) been articulated as a “religious” problem (2006, 86).

However, the idea that there could be a “political” solution for a “religious” problem, or vice versa, was a new one. Indeed, dividing up Europe on the basis of confessional differences was a new idea. But it did *not* obviously produce modern sovereignty as an outcome of the peace—and certainly not sovereignty attached to modern, territorial, secular states. Rather, the policy of *cuius regio, eius religio* established an interdependent relationship between religion and politics, an interdependence that differed from the prior integration of a theological-political society. Where once “religion” and “politics” were inseparable, in the sixteenth century they were becoming separable and intertwined. As one historian pointed out, the Peace “advance[d] both secularization and [emphasis mine] confessionalization” (2006, 96).

Thus, with this narrative, I ask these questions: was the Peace of Augsburg a political solution for a religious problem? Or a religious solution for a political problem? And why does this matter for international relations? I argue that it was both. Before the Peace of Augsburg, politics and religion were indistinct; it was possible to speak of the *congregatio fidelium*, which while complex, was nonetheless coherent. After Augsburg, it was not. Ultimately, the Peace of Augsburg—though it *also* made room for the modern,

territorial nation-state—set up the groundwork for “confessional politics,” or politics in which religious identity is specifically attached to political behavior.

To set up the groundwork for this discussion, I first discuss the confessionalization thesis; this initial discussion parallels the objective of the discussion of conciliar and papalism in the last chapter. Just as that discussion illuminated a contemporary debate of the 15th century which helps us understand apostolicity, synodality, and hierarchy, the three threads of the tradition of canonical status, so this section on confessionalization serves the same purpose. In other words, the analytical category of confessionalization allows us to give more attention to polities’ processes associated with the tradition of canonical status: in particular, the fact that myriad polities continued to be involved in matters of governance within international society especially illuminates late medieval synodality.

After discussing confessionalization, I discuss the Augsburg Confession in the context of European confessional agreements. As the first in a series of confessions, the CA (*Confessio Augustana*, Latin for Augsburg Confession) may be seen as the agenda-setter that opened the question of religious governance. In the language of institutionalist arguments within international relations, we may therefore think of the Peace of Augsburg as having broader “spillover effects”—both because of the innovative content of the CA and the Peace (e.g. new ideas about governance) and because the Holy Roman Empire, while not perfectly universal in empirical terms, had claims to universal authority.

The Augsburg Confession was then followed by what historians call the Augsburg Interim. Some historians consider the Augsburg Interim to be religious in

nature, while the Augsburg Peace was considered to be a more political agreement (2006, 88). This conclusion may be related to the fact that the Interim was minimalist in so far as it made only two provisions, both of which were religious in nature: it allowed clergy to marry and it allowed the laity to receive both elements in the Eucharist. But what accounts for the difference between the Interim of 1548 and the Peace in 1555? And are these religious and political distinctions between the two as distinct as historians have previously thought? I will discuss this further in the historical narrative portion of this chapter, arguing that the debates during the writing of the confession and at the Interim, which centered upon the Eucharistic controversy, were just as political in nature as the outcomes at the Augsburg Peace.

Finally, it is important to note that the meetings for these confessions fit into the analytical category of “societal congresses,” which I discussed earlier. This allows me to continue giving a coherent account of the long Reformation period through the lens of the tradition of the canonical, as I explained earlier. Because all of these congresses depended upon canon law in order to have authority societally, and because they were populated by the primary actors of international society, they provide further evidence regarding how actors sought to maintain their statuses by reference to the canonical.

The question is, when did other such meetings—for example, imperial diets, regional synods, etc.—take on the significance required to consider their status canonical? With the canonical’s association with apostolicity, it is not a term to be used without intention. Thus, before I provide a historical narrative, I include a section on the analytical category of societal congresses, discussing how the confessions and diets within this era fit into this category. Recalling my discussion when I introduced the term

in chapter at X, I pay attention to how these meetings established their authority in the context of an international society that was still primarily held together by canon law, which had traditionally required the use of general Church councils to address society's most central questions of governance.

Therefore, in this section I argue that non-Church meetings drew upon the tradition of the canonical when the organization of the Church's own authority structure was in question, making it necessary for other bodies to congregate in order to make religious-political decisions; following on this, I add that the Church's authority was in question because of popular ideas of papal headship in the fourteenth and fifteenth century, which countered the Church's tradition of episcopal, diocesan administration.

In other words, non-Church meetings drew authority from canonical status *only* within the era of the long reformation because the papacy's attempts to maintain its unique apostolic authority, over and above councils, and over and above the emperor. The bull *Execrabilis*, which I discussed in the last chapter, is an excellent example of the former, given its specific counter-argument against conciliarism, while the papacy's reluctance to cooperate with the Council of Basel, called for initially by the French king, is an example of the pope's animosity against imperial authority. Of course, it is ironic that it is in the context of canon law becoming even more interlocked with the papacy that other non-Church meetings could be considered canonical. Yet, it was this context that opened the door for other meetings, and the actors who participated in them, to claim they had the same universal authority.⁸⁴

⁸⁴ Recall that I said earlier that actors did not call themselves canonical. Yet their arguments paralleled customarily those which were legally canonical in character.

Confessionalization in international society

The term confessionalization is drawn from German historical literature, and it arose in the context of debating the differences between Protestant and Catholic roles within the broader period of reform in the 15th and 16th centuries. Traditionally, the (Protestant) Reformation began with Luther's theses in 1517, and ended in 1555; thus, reform taking place after this was considered the Catholic Counter-Reformation because during this time the Catholic Church acted in response to reformers in order to reclaim the faith in Europe.⁸⁵

However, some historians have found these divisions between Reformation and Counter-Reformation unproductive because these labels implied that it was clear who was Protestant and who was Catholic at this time; but in the 16th century the term Protestant was very new, and many reformers sought to demonstrate their orthodoxy—hence, the divide between Catholicism and Protestantism may not always help us understand differences between polities over matters of doctrine. To address these challenges, the German historian Ernst Walter Zeeden introduced the term confessionalization, which he argued was a more neutral term, capturing a broader process in the second half of the 16th century towards building distinct Churches upon single confessions of faith (Lotz-Heumann and Pohlig 2007, 37).

⁸⁵ This is a gross oversimplification of a highly complex and prolific literature. Nevertheless, these are trends within the literature's classification of itself. See, for example, O'Malley, J. *Trent and All That: Renaming Catholicism in the Early Modern Era* Cambridge, Harvard University Press, 2000, Deventer, J. "Confessionalisation - a Useful Theoretical Concept for the Study of Religion, Politics, and Society in Early Modern East-Central Europe?" *European Review of History* 11(3)(2004): 403, Wallace, P. G. *The Long European Reformation*. London, Palgrave MacMillan, 2004, Lotz-Heumann, U. and M. Pohlig. "Confessionalization and Literature in the Empire." *Central European History* 40(2007): 35-61..

Zeeden also adopted the term confessionalization in order to take a comparative approach. He was especially interested in the similarities between the processes of developing the institutional frameworks of Lutheran, Reformed and Catholic Churches. As he is translated writing, confessionalization is “the spiritual and organizational consolidation of the various Christian confessions that had been diverging since the religious split into more or less coherent ecclesiastical systems with respect to their dogma, constitution, and form of religious and moral life” (Deventer 2004, 406). With this in mind, Zeeden’s work could help facilitate thinking comparatively about confessional processes and political institutions.

Confessionalization scholars who followed Zeeden also adopted his approach in order to write societal histories of modern state formation in particular.⁸⁶ Specifically, the two scholars who are well-known for this contribution are Reinhard and Schilling, both of whom focused on the integration of political and religious factors in the making of modern states (Deventer 2004, 407; Strasser 2007). Although this research does not focus on modern state formation, but rather on the interaction of myriad polities within international society, Reinhard and Schilling’s societal focus remains an important contribution. Because they believed that the concept of confessionalization emphasized that in medieval international society, “religion and politics . . . were structurally linked together, so that under the specific conditions of the early modern period the effects that religion and the Church had upon society or not separate parts of a larger phenomenon but rather affected the entire social system” (Deventer 2004, 407). Thus, their view of

⁸⁶ Even though I do not emphasize the nation-state here, their approach to the nation-state is a useful one because it introduces the inseparable link between religion and politics, which is as much a feature of international relations as the secular nation-state is.

confessionalization, and the type of analysis which it could facilitate, parallels the approach taken in this research with the tradition of canonical status. This is because canonical status integrates the traditions of apostolicity, synodality and hierarchy, which were societal processes that integrated over time so as to facilitate canon law, as well as a layered tradition that Reformation polities could continue to draw upon, regardless of whether they had the authority to draw upon formal canon law.

Historians also use the term “confessionalization” because it refers to a historical trend towards writing down points of agreement and disagreement regarding matters of Church doctrine.⁸⁷ When focusing on the written confessions in particular, historians use this term to describe the 1560s: specifically, the decade following a series of confessional agreements, starting with the Augsburg Confession (CA for *Confessio Augustana*), and which were dispersed throughout Europe (MacCulloch 2003, 307). This aspect of the confessionalization literature is an important one to mention because it mirrors the emphasis on written sources in the canonization process, which I discussed in chapter 3. As I mentioned in that discussion, the process of writing down of sources was a broader demonstration of the status of the Word— and so, when Reformers wrote confessions in the sixteenth century, they were reenacting the apostolicity of the canonization process; as they recorded matters of belief, their actions manifested the living Word in the form of the written word—that the status of canon law also aimed to mirror.

⁸⁷ This also points to an important new trend associated with international societal agreements, whether these were treaties or something else more informal. Prior to the 16th century, treaties were recognized as legitimate via oral agreements, which demonstrated how the Word was central in medieval international society. Writing, if it was used was instrumental. For a discussion the introduction of written customs in treaty practice, see Randall Lesaffer. See earlier discussions of Lesaffer and the role of writing in treaty agreements.

It is also important to note some of the limitations of the confessionalization term. Although Zeeden hoped to introduce a neutral term, which would invite comparative analysis and a more nuanced means of understanding societal processes, the term became more associated with Roman Catholic historians. As such, it became a means to understand the processes associated with the Counter-Reformation, and how the Protestant confessions responded to it. Bell quotes a recent definition of confessionalization as the “consolidation and advancement of the three confessions (Catholic, evangelical and Reformed) in terms of religious doctrine, relationships with the state and developing religious identities” (Bell 2007, 345).

While this has value insofar as it led to greater understanding of the broader “catholicizing process” of the Reformations period, by narrowing the focus to only the three major confessions,⁸⁸ this kind of analysis does exactly what Zeeden had hoped to avoid: it remains on one side of the fence of Reformation studies. O’Malley observed this and published his work, *Trent and all That*,⁸⁹ in which he argues against thinking in terms of a Catholic Counter- Reformation. He writes,

such terms [like Counter-Reformation] ... were not simple labels, for they acted as implicit questions and implicit categories of interpretation. They thus subtly directed attention to some issues and away from others, highlighted certain phenomena and cast others into shadows, admitted some evidence but filtered out the rest (O'Malley 2000, 3).

⁸⁸ Bell asks, what about non-confessional belief communities? He has the question of Jewish belief communities in mind Bell, D. P. Confessionalization in Early Modern Germany: A Jewish Perspective. *Politics and Reformations: Histories and Reformations. Essays in Honor of Thomas A. Brady, Jr.* C. Ocker, M. Printy, P. Starenko and P. Wallace. Leiden, Brill, 2007., but we might ask the same question of the English reformation, which was not confessional in its outcomes

⁸⁹ A title which bears resemblance to Stephen Krasner’s “Westphalia and all That.”

Although O'Malley does not adopt the term confessionalization in response to the hermeneutical problems he identifies with the label Counter-Reformation, his argument nevertheless points to the importance of choosing analytical terms which are appropriate to the specific question of study.

The association of the term confessionalization with studies of a Counter-Reformation also invites stepping back and asking ourselves, what do we mean by confessional politics? There is nothing in the definition of confessional politics that necessitates just looking at Catholic counter reform in the Reformation period. Yet, studies of Protestantism and Protestants hardly ever use the term confessionalization—probably because it seems to be an inherently conservative term, which is not the conventional way of thinking about Protestant reformers, who historians often see as breaking with tradition.

While it is true that the process of writing confessions that focused on theological commonalities between Reformation theology and orthodox Catholicism bore an important resemblance to the practice of recording canons at general Church councils, there is also an important way in which Reformers departed from such contemporary canonical practices: this was their emphasis on Scriptures. As Loader writes, “What was new was not a Scriptural principle ... but its [the principle *solo Scriptura*] being made exclusive” (Loader 2005, 1032). As I discussed in the first chapter, scriptures provided some of the first canonical sources, and these canonical sources informed the way in which the visible, hierarchical Church would take its form. For example, the Acts of the Apostles provided the source for organization on the basis of Church councils (Ozment 1980).

Hence, from a Reformation theologian's point of view, the written confessions of this period might not be considered "canonical." However, such a theologian would take on this perspective based on a sixteenth century view of "canonical." My reading of the tradition of canonical status is not a sixteenth century one, however, and so I consider it valuable to understand that polities in this era were drawing upon a tradition of canonical status. Reformers took an interest in reclaiming an "apostolic" idea of the Church, not unlike the ideas discussed in the early part of the third chapter.

Societal congresses and confessionalization: synodality revisited

The period I cover in this chapter includes several major markers of an era of confessionalization as part of my narrative of the long reformation. These markers, as I mentioned in the last section, are the Augsburg Confession, with its "spillover effects" due to its influence upon other European confessions, the Augsburg Interim and the Augsburg Peace. After discussing these markers, I included a section on Tridentine Catholicism, which is a nod towards the broader understanding of societal congresses as a category inclusive of both Church and non-Church meetings. It is also indicative of the broad trend of confessionalization, which was not unique to "Protestant" polities.

Recall that I introduced the category of societal congresses so as to include non-Church meetings which, while they did not have the status of "ecumenical"—in the sense that it meant universally recognized and inclusive of the faithful—like Church councils, they nonetheless had important implications for the organization of medieval international society. Further, the category of societal congresses hearkens back to the ongoing tradition of the inclusion of myriad polities in international society since the

early Church's coexistence with the Roman Empire. In these ways, this analytical category grants further credence to the tradition of canonical status.

However, while these reasons could suggest that using the analytical category of societal congresses could be useful in a variety of time periods, there is actually a specifically good reason to use this category for meetings of polities of international society within the 16th century; in the section on societal congresses in the chapter on the long Reformation, I mentioned Lesaffer's argument that in the sixteenth century there was, as yet, nothing to replace canon law; specifically, there was no law of nations. Lesaffer develops this argument further: while it is true there was nothing yet to replace canon law, it was also true that canon law was weakening. He writes:

...[the] dissimilarity of treaties is an indication of the absence of a truly European or general law of nations after the collapse of the old international system and the emergence of the modern state system. Once the universally accepted role of canon law had come to an end, the powers of Europe were thrown back upon their own resources and the agreement they made with one another to organize legal relations among themselves (Lesaffer 2004, 15).

It was this legal weakening process of canon law that Lesaffer argues made way for the modern law of nations, at least in treaty practice which he covers in great detail.

However, I would argue that the process toward a modern law of nations was by no means inevitable, and certainly not linear,⁹⁰ due to the weakening of canon law in the 15th and 16th centuries.

Instead, in the absence of an alternative— a clearly articulated law of nations, for example—polities fell back on what they always had: traditions. And in particular, in the

⁹⁰ Additionally, canon law had a role in shaping the direction of modern international law. See Muldoon, J. "The Contribution of Medieval Canon Lawyers to the Formation of International Law." *Traditio* 28(1972): 483-497, Steiger, H. Peace Treaties from Paris to Versailles. *Peace Treaties and International Law in European History*. R. Lesaffer. Cambridge, Cambridge University Press, 2004, Orakhelashvili, A. "The Idea of European International Law." *The European Journal of International Law* 17(2)(2006): 315-347..

mid-16th century polities were able to draw on the tradition of canonical status. The meetings which I include in this chapter (again, the confessions, the Augsburg Interim and the Peace of Augsburg) all demonstrate how myriad polities relied upon the synodal form in order to make decisions, and they also demonstrated how differing hierarchies were involved in the governance of international society (cities, the Empire/princes and the Church).

For example, by the sixteenth century, formal conciliarism was not playing a central role in shaping discussions of how polities would organize themselves in order to make governance decisions for international society; nonetheless, conciliarist *ideas*—which, as we saw in the last chapter were an iteration of traditional synodal ideas—still played a role. As Avis argues, Luther gave “a conciliar rationale with an evangelical thrust” because, just as he argued that the body of the faithful was the most accurate expression of Christ’s Incarnation, so did he simultaneously argue that a council (which conciliarists argued approximated the body of the faithful) could err (Avis 2006, 114-115). In other words, reformers tore apart the institutional authority of the council, ascribing to it authority *only* because they believed that it best approximated the body of the faithful.

Theological arguments like this give credence to societal congresses (e.g. non-Church meetings) for a couple of reasons. First of all, behind Luther’s argument that the collective body of the faithful manifests Christ in the world is his notion that all the baptized were “priests”—that is, all the faithful had the responsibility to interpret Scripture. He also argued that there was no historical justification for the precedent that only the pope could call a general council (Avis 2006, 115). With these two points in

mind, it is important to remember that only a privileged few at general councils—bishops and theologians, to be exact—had the authority to interpret Scriptures and therefore deduce solutions to govern international society. During the Augsburg period, those present at the confessions, diets, etc., were not officially recognized as authoritative according to the rules of general councils. Nonetheless, they were synodal meetings in accordance with the tradition discussed in the first chapter.

In the narrative which follows, I start with the Augsburg confession because through controversies based upon sacramental practices, a theological issue became a confessional political issue. Before Augsburg, there were no confessional politics explicitly; although it is possible to look back on the creeds as early examples of confessionalism, the Church had no need to identify them as such because plurality of practices among the faithful was the norm before Gratian. But in the 16th century, during which papal supremacy was central, and the Church's governance came under increasing scrutiny by reformers, differences in confessional identities were introduced. The Augsburg confession made it possible, I argue, for the Peace to institute the policy of *cuius regio, eius religio*, which formalized confessional identities.

It is important to note though, that the introduction of confessional identities was not just the work of Protestants, Tridentine Catholicism also responded to differences over the practice of the Eucharist, passing decrees at the Council of Trent to enhance their control over the faithful. The Roman Church therefore did its part in creating modern boundaries as well. I will discuss this after the Augsburg narrative is complete.

The Augsburg Confession and the European Confessions

The era of confessionalization picks up on a couple of important themes from the prior era of conciliarism covered in the last chapter. Recalling that conciliarists were concerned with the question of who had ecclesiastical authority and in which contexts, so also were politics' conflicts in the early to mid- 16th century driven by similar questions. However, while in the prior chapter these questions primarily took place in the context of general councils, in the 16th century, these questions took place more often in an imperial context. For example, some imperial free cities cut links with bishops, seeking to ensure that their cities were not dominated by any noble-born Churchmen; e.g. city councils often appointed their own guardians over the monasteries and nunneries, and before the “Lutheran explosion” Nuremberg was in charge of its own ecclesiastical institutions (MacCulloch 2003, 48).

Seeking to ensure that cities were not dominated by noble born churchmen was as much about avoiding control by Church authority as it was about avoiding imperial authority. So MacCulloch writes that in this context, “princes and city councils boasted of being popes in their own jurisdictions,” yet none of this was a “conscious act of defiance” against the papacy—an argument he makes because most of these conflicts were about family power and class struggles, not between clergy and laity (Ozment 1975; MacCulloch 2003, 47, 49). I would argue that instead these struggles were against centralized societal authority, which was starting to prevent local jurisdictions from having the autonomy that a dispersed society had so long given them.

Therefore, in the context of a century following one in which papal supremacy had become much more important, and in which authority conflicts over ecclesiastical

jurisdiction matters were becoming the norm, in 1530, the emperor called for the Augsburg Confession (Stuckenberg 1869; Neve 1927). The Confession defined the major points of agreement and contention between Luther's⁹¹ followers and Catholicism, or the "old" and "new" believers, as they were frequently referred to, in the first and second parts of the Confession, respectively.⁹²

In this regard, 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'" (Smith 1962 [1920], 97). In attempting to focus on consistencies between Lutheran ideas and orthodox Catholicism, the objective of the Confession was to demonstrate that these so-called "new believers" should not be precluded from practicing their faith in proximity with those who considered themselves "old believers." This is not religious freedom in the modern sense, given that the Confession's goal was not to offer any protection to the new believers, but rather to simply argue that they were not in fact different—in other words, they were orthodox.

However, the agreement achieved in the CA came at a high price; ultimately, the Confession would only apply to some of the new believers, those who later became

⁹¹ 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?

⁹² This format—with the first part emphasizing points of agreement, only to be followed by areas of doctrinal controversy—was important because it shows how Luther and his followers 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. Maurer, W. *Historical Commentary on the Augsburg Confession*. Philadelphia, Fortress Press, 1986..

known as Lutherans, since only the theological ideas of Luther and his followers were included. Many of the negotiations with other Reformers—in particular the Zwinglians, those who followed the Swiss reformer—had to be cut, such that the final document applied only to Lutherans and not to all those who expressed different views on Church polity.

The most delicate issue was the Eucharist, or the Lord's Supper. Followers of Zwingli and Luther differed on the "real" vs. "spiritual" presence(s) in the two species (elements) and, as such, they also differed on the point at which the faith of the individual believer became important. For Zwinglians, the Lord's Supper took on its meaning if and only if the individual believer had faith in the significance of the sacrament. They therefore focus on the taking of the Lord's Supper as an act of remembrance—a memorial acted on in faith, in other words. This is in contrast to Luther's position which focused on the sacrament as an outward "sign" of the true presence of Christ in the fellowship of the faithful. While for Luther this "sign" was premised upon the individual believer's faith, it is worth noting that in the CA, what is emphasized is the "true" presence of Christ, the point on which the old and new believers could agree (Grane 1981, 117-118).⁹³

Because of differences over the Lord's Supper, controversy arose over what—and therefore who—would be included within the CA. Only once, at a preliminary meeting before the Confession actually began, did Landgrave Philip of Hesse call a meeting

⁹³ Article 10: "[On the Lord's Supper] our churches teach that the body and blood of Christ are truly present and are distributed to those who eat in the Supper of the Lord. They disapprove of those who teach otherwise" Grane, L. *The Augsburg Confession: A Commentary*. Minneapolis, Augsburg Publishing House, 1981.. Note the article does not specify the basis of the real presence (e.g. the Holy Spirit?) or the role of faith in this regard. Rather the sacrament "awakens faith" (Article 13, p. 146).

between Zwingli, Luther and their followers in order to establish points of agreement between the two groups. They drafted a document called the Marburg Articles at this meeting, but these were largely excluded from the final documentation within the Confession, which were based on a different set of articles.⁹⁴ Nonetheless, some princes at the CA—for example, the Electors of Saxony and Brandenburg—rejected the final documentation because it was not in their interest to alienate the Swiss (Grane 1981, 15).

On the other side, the Swiss did not want to alienate those present at the CA, so they began to seek a “third way.” As a result of the CA, Lutheranism had become much more formalized, or theologically narrower according to the view of some, and therefore the Swiss needed to document a different set of confessional principles. Nonetheless, a number of the Swiss princes sought to come up with a settlement that would satisfy those who would agree with the Melanchthonian version of the CA as well as the Zwinglians. In particular, such princes present at the formulation of the Heidelberg Catechism (1563) focused on the theology of the Eucharist (MacCulloch 2003, 344-345).

The Augsburg Interim

Because of the differences among the Protestants at the Augsburg Confession, there was a movement among the Protestants towards greater definition of beliefs associated with differences in religious practices in the decade after the Confession. The most prominent example of this was the Archbishop of Cologne, Hermann von Wied,

⁹⁴ These were called the Schwabach Articles. There are no credible historical documents of the articles themselves though, so historians only know that they were the precursor to the final CA—and that they were the official policy of the Empire. Thus, princes would refer to adhering to the Schwabach Articles. See Maurer, W. *Historical Commentary on the Augsburg Confession*. Philadelphia, Fortress Press, 1986..

who proposed reforming his diocese, including several reforming principles in his proposal: he condemned prayer to saints and emphasized the importance of preaching for the edification of the faith of the laity. As the prince-bishop (an individual who held both offices in one person), his Protestant sounding proposals were quite threatening to Rome (MacCulloch 2003, 262-263).

Although von Wied was quite Protestant in his proposals, he did have the goal of attempting to build bridges between traditional and reforming authorities within international society, and especially the Empire. Nevertheless, his proposals were far too radical, even taking into consideration his coalition goals; because of this, the Pope deposed him in 1547. With von Wied out of the picture, Protestants in continental Europe were lacking in leadership, leaving those who were still practicing reforming ideas in local jurisdictions largely unprotected politically. Thus, the emperor still needed to respond in order to prevent conflict at the local level: this is where the policy of the Augsburg Interim came in (MacCulloch 2003, 263-264).

With the Interim of 1548, the emperor sought to forge a temporary religious solution. The Interim was minimalist, making two provisions only: it allowed clergy to marry and it allowed the laity to receive both elements in the Eucharist. Given the much broader, theological character of von Wied's proposals, this was probably disappointing for most Protestants. As MacCulloch writes, the minimalist character of the Augsburg Interim "rode roughshod over Lutheran theological and devotional sensibilities" (MacCulloch 2003, 264). Another way of stating this is to say that the Emperor modified two central religious practices without approaching the theological differences which were the source of political conflicts. In other words, Europe in 1547 turns our modern

notion of how religion and politics relate on its head: instead of coming up with political solutions so as to allow for religious differences, and not let them intrude upon the political sphere, in 1547 it was easier to modify religious practice than it was to acknowledge confessional differences. In being so minimalist, perhaps the emperor hoped that the divisions over the Lord's Supper would be less pronounced. However, this was not the outcome that arose; a number of the more evangelical princes began leaving the Empire, and many of the more radical reformers (theologians) found refuge outside the Empire (often in England) (MacCulloch 2003).

The Augsburg Peace

The minimalist nature of the Interim was also a continuation of the minimalism of the Confession, and this also extended into the peace in 1555. Because the Confession only applied to Lutherans, the Peace that followed also only applied to Lutherans. By this time, "The Lutherans hated and feared the Reformed almost as much as they did the papalist Catholics," writes MacCulloch, and this was the primary difference between Europe in 1555 vs. Europe in 1526, when the principle of *cuius regio, eius religio* was first expressed at the Diet of Speyer (MacCulloch 2003, 160).

Yet, the Interim and the Confession were only minimalist in a legal sense; we cannot forget the spillover effects of the CA which I alluded to earlier. However, Lutheranism was considered a *religio licita* (legal religion), a status which meant it was formally recognized, while the Zwinglians were not included.⁹⁵ Further, the central

⁹⁵ 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

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 because they affected much more than the newly identified Lutheran lands. These questions related to all the new believers; for example, 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 1981, 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 1981, 16, 17).

The Diet for the Peace of Augsburg was called for the 13th of November, 1554, but it did not commence until the 5th of February. It took this long for all the Estates to gather, although by Feb. 5th, only two ecclesiastical princes were present, the Cardinal Bishop of Augsburg and Bishop of Eichstadt (Lindsay 1907, 395). This long delay in beginning the negotiations was largely to do with differences regarding the objectives of the Peace: was a religious peace possible? In other words, was it possible to reunify Christendom as one Church? Arguably,

...the Peace stands awkwardly half-way along a long process of development. At one extreme is the high medieval collectivism that says there is ‘one Universal Church of the faithful, outside of which there is absolutely no salvation’ (Lateran IV, Constitution 1) and that all baptized Christians must belong to the one Church on earth. At the other extreme is the position achieved by the mid-nineteenth century in much of Europe, where all subjects of a state were free to choose the

were beyond the conditions of the Peace Lindsay, T. M. *A History of the Reformation*. Edinburgh, T. & T. Clark, 1907..

religious affiliation of their choice, including none, without disadvantages (Editors 2006).

However, although it is possible to take on this perspective with historical hindsight, parties to the Peace of Augsburg were not operating in between two ideals; they knew only one ideal, the medieval collectivism view of their international society. Thus, if they did not answer the question, was a religious peace possible?, in the affirmative, it opened up unknown political-religious territory (no pun intended).

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 (Spitz 1956, 111-112, 149; Tüchle 1971). 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 1956, 113).

The Elector of Saxony, who was coming from a region that 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 1956, 112, 113).

In other words, if they simply discussed political issues— or matters of polity— they could have remained focused on the objective of reunifying Christendom. However, if they discussed religious issues— or matters of dogma— they would end dividing the polity further. Here it is helpful to recall the point I mentioned earlier that “ecclesiastical polity” was the standard way to think about how the international society was legitimate at the time. As such, to discuss “religious” issues was to invent a new way of thinking about those issues, which had previously been embedded in international society.

In the end, the discussions at the Peace of Augsburg sought a compromise between dogma and polity. A good example of the compromising required at the Peace is illustrated with the moderation of the Palitinate: coming from a region that was neither clearly more Catholic nor more Protestant, they allowed Protestantism to flourish without officially changing the religion of the area (Spitz 1956, 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 that would explicitly address religious questions.

One reason for this prioritization of a religious peace over a political peace may have been that, prior to the Diet, the Protestant princes⁹⁶ 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

⁹⁶ The princes present included the Electors of Brandenburg, Saxony and the Landgrave of Hesse. See Spitz (cited at end of paragraph).

“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 (Lindsay 1907, 396). 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 1956, 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 (Lindsay 1907, 397).⁹⁷

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

⁹⁷ Allegedly, Ferdinand promised that toleration of Lutherans within Romanist territories would be carried out “in practice.” The fact that this promise was not followed through with became one of the points of contention during the Thirty Years War.

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 1956, 117).

The final provisions of the Peace compromised upon the two groups' demands.

These included the following:⁹⁸

- 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 subscribe to the Peace of Augsburg without losing his office;
- 3) Any official who had already agreed to 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 in another territory 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 (Tüchle 1971, 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 (Tüchle 1971, 160-161).

⁹⁸ Note, however, that these numbers do not correspond to actual points of agreement in the Peace, but I use them here as a means of itemizing different outcomes for the sake of clearer understanding (Kirsch 1911).

Tridentine Catholicism

The Council of Trent ran almost in parallel with the Augsburg solutions to confessional differences; the Emperor had initially sought a Council sanctioned by the Pope, but opted for Imperial diet instead because the Pope would not agree to a Council (Spitz 1956). Nonetheless, when the Council of Trent began in 1545, it was clear that it was German imperial demands that influenced the agenda. The location of the Council, Trent, was under German control (though it was also on Italian soil, so this appeased the papacy) (Tanner 1990). Further, Protestant princes were granted safe passage in order to attend the Council, even though they could not vote (Kirsch 1972).

The Council of Trent is known for interest in the regulation of society by means of the liturgy and sacraments. It sought to exercise control this way by creating uniformity in both areas, most notably linguistically (the Latin Vulgate became the accepted version of the Scriptures and as also becoming the official language of the Mass), customarily (they approved a breviary for use in non-Eucharistic services, mainly the daily prayer services all would participate in), and sacramentally (the practice of all seven sacraments was explicated with special attention to baptism and the Eucharist).

In order to enact these liturgical regulations the Council addressed basic matters of dogma first, matters which were at issue in the context of the reforming movements. They reasserted the Nicæan Creed, for example, before they passed a decree asserting the texts which belonged to the Biblical canon (Tanner 1972, 662, 663). These discussions, affirming the tradition of the Church and the canonical status of the Scriptures allowed members of the Council to take up first theological matters upon which they differed from the reformers (original sin and justification by faith), which in

turn affected the choices they made regarding the administration of the sacraments (Tanner 1972, 658).

These theological foundations to the liturgical and sacramental regulation that an outcome of the Council were important because they contributed to further delineating confessional lines in late medieval international society. As MacCulloch argues, Rome cut off options for spiritual (societal, I call it) practices by defining specific, limited theological bases for its liturgy and sacraments (MacCulloch 2003, xix). By choosing Latin as the liturgical language, for example, the Roman Church limited itself to a particular group of believers who were more likely to be the educated elite.

To understand this point, consider an example that looks similar in form but differed in theological foundations: the Book of Common Prayer adopted by the English in 1559. The “Elizabethan compromise” was based on the idea that a Church could regulate its liturgical practices such that uniformity of worship was the norm—while simultaneously not regulating what believers thought was going on in worship. Who really cared what the uneducated believer thought was happening during the Eucharist anyway? According to the English solution, what mattered was that they were taking communion, and whether the individual believed in transubstantiation or real presence—or even nothing at all!—mattered little. The sacrament was “effectual” regardless of who administered it, although being worthy and showing faith was advised.⁹⁹

⁹⁹ See Articles 25 and 26 of the Articles of Religion: 25 says that “they that receive them [the sacraments] unworthily, purchase to themselves eternal damnation” and 26 asserts that regardless of whether ministers of the sacrament are worthy (e.g. live up to their offices—recall John Hus’s views discussed), the sacrament is “effectual ... because of Christ’s institution and promise” (Episcopal Church 1979, 874-875).

The English case is distinct from the confessionalization trend established via Augsburg and the Council of Trent—and it is a useful contrast because it helps illustrate what Protestant Europe and Tridentine Catholicism had in common: they both defined a narrower understanding of legitimate practices for international society on the basis of theological presupposition—and in doing so, international society itself narrowed politically. No longer could one refer to a unified moral vision of international society, or even a shared tradition; instead, there were “traditions.”

All this is not to say that the tradition of canonical status ceased to matter in the sixteenth century; indeed, every session of the Council of Trent reinforced its relationship to the first apostles by calling upon the Trinity and the apostles as descendants¹⁰⁰; furthermore, synodality and hierarchy were informing new confessional polities, as I will discuss in the next section. But the deeply Pauline notion of the society as body of Christ was faltering.

Outcomes of the Peace of Augsburg: *cuius regio, eius religio* and *ius emigrandi*

Cuius regio, eius religio and *ius emigrandi* were policies that responded to two central problems related to imperial jurisdiction in the sixteenth century: first, there was the question of the role of the prince in determining the religious practice of his realm; second, there was the question of how the subjects of each realm would be affected by the prince’s decision regarding religious practice if they did not agree. Neither the

¹⁰⁰ For example, session 2: “Sacrosanct Tridentina synodus in Spiritu sancto legitime congregata, in ea praesidentibus eisdem tribus apostolicae sedis legatis, agnoscens cum beato Iacobo apostolo, quod omne datum optimum et omne donum perfectum desursum est, descendens a Patre luminum, qui iis qui postulant se sapientiam, dat omnibus affuenter et non improperat eis » (Tanner 1972, 660).

authority to govern matters of religious practice at the local level, nor migration were new issues in the sixteenth century. However, they became pronounced in a new way, in that now princes and subjects were the central actors, rather than ecclesiastical authorities and the *congregatio fidelium*. In the case of the latter, governance by local ecclesiastical authorities had been the norm since the early Church (as discussed in the chapter on canonical status), while migration throughout Europe, especially by scholars and theologians, was the norm in medieval international society.

It is important to note that *cuius regio, eius religio* and *ius emigrandi* are names for the responses to these types of questions because, if we look at the specific outcomes of the Peace of Augsburg (see end of last section), they are not immediately obvious. What is clear is that ecclesiastical jurisdiction was suspended where the Augsburg Confession applied (number 4), effectively handing over the jurisdiction to local authorities. Local authorities could be princes, but they could also be city infrastructures (in the case of free cities in the Empire, number 7).¹⁰¹ *Cuius regio, eius religio* was given room to stem from these provisions within the Peace, since the agreement was stating that ecclesiastical authorities would no longer have jurisdiction over matters of religious practice. Further supporting the outcome of *cuius regio, eius religio* was the first point of the agreement, that no estate of the Empire could compel another to change its religion, and that differences in religious affiliation was no longer considered a legitimate reason for going to war. This ensured that local authorities had autonomy in terms of choosing the religion of their realms.

¹⁰¹ See also Moeller, B. *Imperial Cities and the Reformation: Three Essays*. Philadelphia, Fortress Press, 1972..

Ius emigrandi, meanwhile, may be derived most closely from number 6. That point suggests that individuals had the right to practice either religion *in any territory*, without losing property or honor. In other words, individuals could, in theory, emigrate to another realm to practice the religion of their choice without penalty. However, it should be clear that this was not equivalent to modern religious freedom. First of all, as I have indicated previously, the Augsburg Peace, like the Augsburg Confession before it, only applied to Lutherans and Catholics. It did not apply to Zwinglians or Calvinists. Further, emigration required paying off one's debts to the prince, which could prove impossible—so, while individuals in theory would not lose their property or offices, if they had debts, they could not freely migrate (Lindberg 2010, 233).

In fact, quite unlike modern religious freedom, which would tolerate all religious practice, the Augsburg Peace limited rights that looked like religious freedom to two groups only: Lutherans and Catholics. In this way, we might draw a parallel between the solution at the Augsburg Peace and the 1943 Constitution of Lebanon, which froze the confessional balance within the governing on the basis of the 1932 census.¹⁰² Of course, the sixteenth century Holy Roman Empire was not to the point of assigning proportional representation within governance on the basis of confessional identities— not least because the monarchical principle was still predominant. Nonetheless, there is a parallel insofar as the Augsburg Peace sought to curb the spread of Lutheranism, freezing matters of jurisdiction at the Peace (see points 1, 2 and 3 in the last section); and the Peace sought

¹⁰² According to Lebanon's constitution, the President must be a Maronite, the Prime Minister a Sunni, and the Deputy Prime Minister a Sh'ia (Coello 1987).

to curb the spread of other (non Lutheran) reforming ideas by limited who the agreement applied to.

As Brady et al write, “the Augsburg Peace is quite startling for the manner in which it takes religious divisions ... more or less for granted, and says remarkably little ... about the content of those divisions” (2006, 88). It is for this reason that scholars have focused on the legal character of the Peace (Spitz 1956; Tüchle 1971). As Brady et al add,

... a document that has so very little to say about the religious content of the Peace was evidently drafted from a perspective of law, politics and governance ... The Peace is not the place to look for a thoughtful discussion of the relative roles of Church and Empire in caring for the souls of its subjects. Indeed, the general air of the document is one of abdication of responsibility (2006, 97).

Of course, one possible explanation for this “abdication of responsibility”—or, stated differently, an absence of content regarding the nature of religious practice—could be that by the time of the Peace, polities had recognized how divisive confessional issues were twenty years earlier. Perhaps they did not want to repeat the kind of controversy surrounding dogma that arose during the Augsburg Confession.

In other words, while the Augsburg Peace distinguished religious and political issues from one another, it did not do so in a way that made the boundaries clear—there was a boundary, but its location and meaning was indistinct. After all, religious-political issues had belonged to one coherent realm before; international society was now in uncharted territory. From the historical context, we may make a few summarizing points useful for understanding the importance of constructing and crossing boundaries in modern international society: confessional polities set limits on who belonged to international society in a new way (the faithful became defined as such in their roles as

subjects of princes, who in turn belonged to the Church); international society was becoming a fabric of a multiplicity of confessional jurisdictions, which on the one hand drew upon early notions of apostolicity and community, but in another became attached to bounded space in a new way—what had been a practice by custom was now being formalized in positive law.

However, the question is, what positive law? I have stated earlier that in the late sixteenth century there was no coherent law of nations yet. It is therefore not possible to call this new “boundary-setting” norm as anything more than that—and certainly not modern sovereignty. The most legal agreement in this period was the Council of Trent, based on canon law, which was weakening at this time. However, canon law decrees still had the most weight because it was the only legal system shared universally through Europe in day to day use. Meanwhile, *cuius regio, eius religio* was adopted and applied as if it were authoritative—and notably, to do so, the Augsburg Confession built on earlier canon law to make its case. The point is, both Tridentine Catholicism and the new believers relied upon canonical status in order to influence the organization of international society.

And they both did influence it. Because both the reformers and Tridentine Catholics narrowed the range of practices allowed within faith communities—and in doing so, defined faith communities as distinct from political communities—one could make the case that modern, distinct Churches with their own regulations—however different their theologies might be—are the product of a broad trend of confessionalization within Europe. And in modern international society this is a demonstration of how religion and politics can coexist on distinct tracks within the same

society. In other words, the regulatory norms associated with confessionalization did their part to define boundaries more strikingly.

Despite this shared trend apparent among the old and new believers, I would nonetheless argue that this boundary-setting outcome was Romanness coming to the fore. It was Rome that was specifically attached to the office of the pope— and had been since the resolution of the Great Schism—in a manner similar to the way that princes were now becoming attached to their jurisdictions. And it was Roman universality which had, many centuries earlier, introduced the idea of *dominus mundi*, a term used for the Emperor, to the Church. And, most importantly, it was Roman law that introduced the idea that certain principles were to be fixed— they were not to be reimagined in light of tradition in the way canonical ideas had once been. These ideas are the basis of the next chapter, discussing the notion of constructing and crossing boundaries, and the implications of this for governance of modern international society.

Chapter 6: The Association of Office and Polity: the Invention of Religion and Modern Boundaries

“Rome ... [took] on a twofold eschatological aura: spiritual and temporal. Dante referred to the pope and the emperor as two suns in *Purgatorio* ‘by which could be seen both the road to the world and the road to God.’ But now they have eclipsed each other as the temporal sword is combined with the shepherd’s crook, leaving the world to stagger like a blind man into the ditch” (Avis 2006, 49).

As papal supremacy peaked in importance between the twelfth and sixteenth centuries, the Church identified more with the locus—or office—of Rome. The papal See, and the corresponding hierarchy of political organization derived from it, became attached to Rome the place and also Rome the idea, or set of traditions. The Great Schism, which the historical narrative of the last two chapters began with, demonstrated the increasing importance of Romanness in two interrelated ways: first, the controversy was between claimants inside and outside of Rome (Avignon); second, the reality of multiple claimants to the papacy challenged the idea of an unbroken tradition facilitating the supremacy of the papal see, a tradition which was intertwined with Roman law and the Holy Roman Empire for its legitimacy. In this sense, one might say that the tradition of canonical status was partially a tradition of Romanness.

Simultaneously, however, the conciliarists of the fifteenth century and reformers of the sixteenth century drew upon that same tradition of canonical status; they relied upon the Roman legal traditions of corporations in particular, as well as the hierarchical traditions associated with Romanness. According to Wilks, the mystical body of Christ

(as opposed to the “true” body of Christ, as I distinguished previously) was a different way of naming a corporate entity, and in doing so, the name *corpus Christi mysticum* combined Roman law and Pauline teaching (Wilks 1964). For example, even though the conciliarists disagreed with papal supremacy, they relied upon hierarchy just as much, for in order for a council to argue its authority, it had to associate itself with the hierarchies of order and jurisdiction—in particular that of *potestas magisterii* (the power to teach), which allowed lay theologians (in particular) to assert that their authority was valid.

The question is, if polities of late medieval international society were doing what they had always done— drawing upon the same universal foundations which granted authority to myriad polities which included princes, the emperor, universities, bishops, cities and theologians—what was so different from the period from Augsburg and Trent onwards? What would prompt Avis to summarize Dante’s ideas in *Purgatorio* in the way he does, with the world staggering “like a blind man into a ditch?” Weren’t temporal and spiritual powers always interrelated and yet distinct?

The answer is both yes and no. As the narrative of the tradition of canonical status demonstrated, which led to the long Reformations era discussed in this work, there was a long tradition of polities, both church and non-church, claiming authority on the basis of apostolicity, synodality and hierarchy. This tradition allowed me to narrate the Reformations era as essentially conservative in character; polities sought to maintain their statuses by drawing upon, and re-imagining, the traditions which made the binding system of international society (canon law) authoritative. Nevertheless, in the course of even the period leading to Gratian before the Reformations, a shift was occurring: society was becoming more hierarchical, and more uniform in its choices about which

hierarchies had authority. As MacCulloch wrote, the church had been a “house of many mansions,” a feature which changed over time as its practices became regulated more from a distinct center – Rome. And this change towards regulation from a distinct center was critical in opening the path towards the development of the modern nation-state. Therefore, I argue that “Romanness” ---the particular manifestation of the new indivisible association between office and polity--was an essential element in the construction of modern boundaries.

In the fifteenth and sixteenth centuries, what was new, then, was the formalization of relationships between offices and specific polities. In other words the hierarchies of order became associated with specific hierarchies of jurisdiction; for example, *potestas regiminii*, which was the power of temporal governance, was becoming associated with princes and cities in much more exclusive ways. Yet, this power of order had once been exercised by the church as well; the conciliarists had debated the extent to which the church could be involved in calling for war—a responsibility we now associate with the (secular) nation-state. *Potestas magisterii*, meanwhile, formally became the teaching authority of the Church, meaning the preaching of the Word and not the interpretation of Scriptures by doctors of theology. Such formalizations of relationships between order and jurisdiction meant that the authority of the orders became limited by type of polity.

This formalization of relationships between offices and polities demonstrates by analogy how the relationship between the moral vision of late medieval international society and the organization of governance responsibilities within that society was changing. Before papal supremacy and the formalization of canon law after Gratian, arguably many polities were able to draw upon the same universal foundations and use

these foundations to exercise authority, largely autonomously, within their own local jurisdictions. After the formalization of canon law and the doctrine of papal supremacy (both of which depended heavily on the Roman legal tradition), canonical status was a much less flexible tradition. The pope's authority was attached to Rome—and hence apostolic status could be tied to a specific place, inviting the idea that it might not apply in other contexts.

I argued that these universal foundations were expressed by myriad polities by means of apostolic status via synodal and hierarchical organization. These threads facilitated canon law becoming the binding normative system of late medieval international society, while simultaneously being the threads of the customary tradition of canonical status, which did not disappear with the formalization of the legal system. But once this legal system was in place—and papal supremacy became central to its program—the “non-church polities” began to look more innovative than traditional. Ironically, however, they were doing what they had always done. (Hence, it became possible to look at the Church's reaction, Tridentine Catholicism, as a “counter” to the reformers, rather than looking at the “new” church's reforms as quite un-orthodox). What had reformed was the old church; it centralized authority rather than continuing to co-exist in a society of overlapping authorities. Hence, the previously seamless association between the moral vision and societal organization, expressed best by the term “incarnational polities,” was no longer. Instead, they were severed from one another, much like the definition of a schism.

The following discussion starts by addressing how papal supremacy was instrumental to the severing of the moral vision and societal organization. Recall from

chapter three, which covered the tradition of the canonical, that the tradition was universal in its foundations in apostolicity, synodality and hierarchy, and it always allowed room for particular interpretations of its meaning in practice. Hence the different takes on the hierarchies of order and jurisdiction, for example. Papal supremacy contradicted this. International society before Gratian was used to the paradoxical coexistence of myriad polities; but after Gratian, as canon law became a positive legal system as opposed to a customary tradition, an uncomfortable contradiction was created. Papal supremacy could not coexist with *cuius regio, eius religio*. They were both claiming absolutism, while before varied polities could coexist by all claiming universality in the context of carrying out their own offices. But as soon as political actors were no longer functionally differentiated, but instead differentiated on the basis of spatial identity, there were problems.

After discussing the centrality of papal supremacy in this process, I then proceed with a discussion of the weakening status of canon law in the fifteenth and sixteenth century, while adding how the tradition of canonical status remained relevant. The latter is critical to understand because it illustrates how, even if canon law was weakening, there was nothing as of yet to replace it. In other words, *cuius regio, eius religio* became the norm by means of polities drawing upon the tradition of canonical status, not by inventing sovereign territoriality. Sovereign territoriality came much later (how much later is a question which lies outside the scope of this research); thus, what is critical to understand is that the new split between politics and religion of the sixteenth century relied on ancient traditions to uphold it. And again, those traditions were apostolicity, syndolity and hierarchy.

Thus, this discussion argues that contained within this research there are two conclusions with particular significance for the construction of boundaries in modern international society: first, the instrumentality of papal supremacy to the severing of the moral vision and societal organization; second, the policy of *cuius regio, eius religio*, which contributed to the split between politics and religion. Together, these two threads contributed to the formalizing relationships between offices and polities, which made room for modern boundaries to gradually come in.

Before embarking on this synthesizing discussion, it is important to clarify what I mean and do not mean by boundaries. In international relations, boundaries are assumed to denote territorial, spatial boundaries; and such territorial, spatial boundaries are tied to political actors, which together constitute a specific type of political identity. This specific type of political identity is the epitome of the association between offices and polities, for it has gone even further than the sixteenth century formalization of relationships between offices and polities by narrowing those relationships to specific spaces (sovereign, territorial nation-states). But such an association between offices, polities and geographical space was not a given; for modern international society to get there eventually, it needed to build on an idea of boundaries which did not rely on space, but rather on something else that facilitated the way to arguments for associating space with polities and offices. In other words, more formal relationships between offices and polities between offices and polities did not necessitate that geographic space would become associated with these relationships. Rather, the relationship between offices and polities made space for modern territoriality to “move in.”

The distinction between these arguments is fine, but critical to explaining how an understanding of late medieval international society is valuable in considering modern international society. What this suggests is that sovereign territoriality was not inevitable. To some degree, one could say, so what? After all, the nation-state did evolve as it did, and now modern international society lives with that outcome; but on the other hand, noticing that sovereign territoriality was not inevitable—that in fact it runs counter to many of the traditions that preceded it—may prompt current scholars to look more closely at some of these other traditions. I would argue that this could be especially valuable in two areas of international relations research: discussions regarding changes to sovereignty and discussions regarding the relationship of politics and religion in IR. Therefore, after discussing papal supremacy, the weakening status of canon law and the meaning of boundaries, I will discuss some questions drawn out of this work for the two areas of IR research that I mentioned.

Papal Supremacy

Arguably, papal supremacy was a norm which could be legitimized by means of the prior tradition of canonical status just as *cuius regio, eius religio* could be. I start this way so as to draw attention to the newness and traditional quality of both. In both cases, members of councils could make a strong case for the legitimacy of both norms. And also in both cases, they were norms which suggested a heightened formalization of authority connecting an office to a place.

It is important to note that I am *not* arguing that having strong norms – expressed via policies in the case of secular authority and doctrine in the case of the Church—was

new. Constructing strong norms happened frequently in the narrative of the tradition of canonical status which I gave. For example, the Council of Nicaea was seminal in this regard in deciding the language of the creeds which would hold society together.

However, as specific as they were about the language, the council members' primary focus was not on offices of authority and space the way that papal supremacy and *cuius regio, eius religio* were.

I will first revisit conciliarist and papalist ideas of the sixteenth century in order to demonstrate how the evolution of these ideas was leading away from the society of overlapping authorities built on shared universal foundations.

Sixteenth Century conciliarist and papalist ideas

“The Lord so wished the sacrament of this gift [ministering] to belong to the office of all the apostles that He placed [it] principally in most blessed Peter, the chief of all the apostles, so that from him, as from a head, He might pour out His gifts, as it were, upon the whole body.”—Leo X (Burns and Izbicki 1998, 2-3)

Traditionally, the end of conciliarist thought is benchmarked at the Council of Basel, at which time the pope specifically countered the conciliarist decrees passed at the Council of Constance. However, there is a case to be made that reformers of the sixteenth century built on conciliarist debates, and these ideas fueled the arguments in the period of confessionalization.¹⁰³ However, even when conciliarist thinkers disagreed with reformers, they nonetheless remained firm on the point that councils were the only way to resolve heresy and schism in the *congregatio fidelium*; even the Council of Trent, which

¹⁰³ In the last chapter I specifically referred to Luther's citation of Hus, but also the work from which that references is drawn consists of a much broader account of the centrality of conciliarism in the Reformation period. See Avis, P. *Beyond the Reformation?: Authority, Primacy and Unity in the Conciliar Tradition*. New York, T & T Clark, 2006..

has become known for its conservatism, had to use a conciliar process in order to achieve papalist ends (Burns and Izbicki 1998, ix).

Conciliarist ideas clearly remained instrumental in governance processes of the fifteenth and sixteenth century. Yet, through the era of confessionalization the formalization of papal supremacy and liturgical reforms were leaning towards greater uniformity. In this context, conciliarist ideas were a direct counter argument in a way that they had not been before. Governing on the basis of synodal organization and relying on largely autonomous local hierarchies was not a threat. Yet, the change was evident in the ongoing debate about the nature of apostolic authority—which informed how those supporting papal supremacy asserted its normative legitimacy.

Leo X's statement, cited above, well sums up the papalist notion of authority. Peter, according to this notion, was the inheritor of the keys and thus the one who was anointed with the authority to grant others (spiritual) authority. Contained within this understanding are all the same elements which were necessary to the making of canonical status: apostolic status, the granting of authority to a community, which made synodal decision-making possible (albeit via Peter), and hierarchical organization. To understand this, IR readers might recall the well known image on the cover of Hobbes's *Leviathan*, illustrating how political authority was derived downwards from the sovereign. Papal authority was seen as analogous.

It should be noted, however, that this same statement by Leo X was also fuel for the conciliarists to argue for the authority of the body of the Council as a whole. Even if Peter endowed the other apostles with authority, once he had done so the conciliarists could argue they had distinct, autonomous authority. For the conciliarists, such an

argument was essential in order to resolve the Great Schism—for without a means available to grant the Council the authority to govern, how were they supposed to solve the problem of three claimants to the papacy?

The Council of Constance, as I have noted previously, was recognized as ecumenical only after the election of Martin V.¹⁰⁴ Thus, the canonical history does not recognize at all the Council's decrees, *Sacrosancta* and *Frequens*, or the process whereby the Council organized itself on the basis of nations; these events may as well have not taken place, despite the historical fact that Martin V could not have been pope had the Council not found a way to claim legitimate authority in the absence of the papal See. To place this problem in the context of Peter's authority discussed above, some of the conciliarists made the argument that all the apostles were equal because each of them held authority which was directly derived from Christ (Burns and Izbicki 1998, 6).¹⁰⁵

However, even as they argued the equal status of the apostles, some also made the more moderate argument that the Council should only exercise authority over the pope in extreme circumstances, and preferably only when the pope grants it authority—a position which is more consistent with Leo X above. For example, Cajetan, a sixteenth century conciliarist, was quoted saying that “the apostle [Paul] was equal to Peter in the execution of authority, [but] not, however, in ruling authority” or, stated differently, all the apostles were Christ's sheep, but Peter alone was shepherd (Burns and Izbicki 1998, 6-7).

¹⁰⁴ Because of this, it is conceivable to argue that Martin V's election disrupted the historic line of apostolic succession. Such an idea might leave the researcher wondering whether leaving the earlier part of the Council of Constance out of mainstream accounts of the history of the general councils isn't because inviting these questions would be doctrinally inconvenient.

¹⁰⁵ Oakley adds that the conciliarists cited Christ's words to all the apostles: “Teach ye all nations” (Matthew 28:19) and “You are the light of the world ...” (Matthew 5: 14-16).

One might say, then, that the difference between these schools of thought lay in the ordering of pieces on board, or the growth of the branches of the tree. Was Peter *primum inter pares*, in which case he had a specific role to play *among* the apostles, or was he the embodiment of the head of the Church, such that all other authority derived from him (including, perhaps, worldly authority, or *potestas regimini*)? One illustrative example of this question is the issue of coronations of kings. Osiander, for example, considers the question of whether the king's coronation is granted from the pope, or whether the king's authority is granted directly from God.¹⁰⁶

However, before the fifteenth and sixteenth centuries, varied hierarchical arrangements could occur without threatening the fabric of the *congregatio fidelium*. Differences in practices did not necessarily require referring to “old” and “new” believers, for variation was the norm due to the episcopal system. As one scholar explains it, there was an “ease with which medieval people mixed categories” which stands in contrast to “our modern discomfort with boundary crossing” (Bynum 1992, 182). I argue this “modern discomfort” was what was being introduced in the period of Constance–Trent, which I discussed. The idea of boundaries was new and necessary in light of the Roman Church's assertion of papal supremacy. However, before I discuss what this looked like in practice, I will turn to the status of canon law in the same period,

¹⁰⁶ Of course, one sentence neither conveys the complexity of the broader set of questions it contains within it, nor even does it capture Osiander's work alone. The issue of coronations is multilayered: the coronation itself was a ritual which could be carried out in different ways, and as with the organization of the councils and the different practices of the Eucharistic controversy, different coronation practices would imply different understandings of the king's authority (in relation to the Church). Was the pope the one endowing the king with this authority, and once he did, was the king autonomous –much like a bishop in his own jurisdiction? Or was the pope just “standing in” for God, granting the king his authority simply because someone had to, and it better be someone with legitimate authority if a human being had to do it? And so forth.

considering how its status also reflected the tension between uniformity and segmentation.

Canon law by the sixteenth century

As I have noted, before the sixteenth century, with both the introduction of *cuius regio, eius religio* and the uniformity of Tridentine Catholicism, late medieval international society was a society of multiple jurisdictions. And, paradoxically, with this confessionalization trend which facilitated the defining of distinct jurisdictions of old and new believers also went a trend towards a stronger definition of canon law and its tradition. I argue that in this period, canon law became much more like modern positive law, and less customary than its tradition suggested it should be.

In this sense, once again polities of late medieval international society were doing what they had always done: asserting their authority in their jurisdictions on the basis of tradition, yet in the sixteenth century, they were doing so in the aftermath of the doctrine of papal supremacy. This meant that regardless of how “conservative” or traditional their behaviors might have been, their actions were now a counter to centralized papal authority in a new way.

In this section, I analyze Randall Lesaffer’s discussion of the significance of the transition towards written ratification of peace treaties in the sixteenth century. While the language of peace treaties is different from the concept of societal congresses that I adopted in this work, the practices which Lesaffer associates with peace treaties may be read within the broader lens of societal congresses. A question for another study would be: is it appropriate to use the language of peace treaties in the sixteenth century, before

there was modern international law? However, for the purposes of this discussion, it is enough to understand that the practices associating canon law with societal congresses were changing and perhaps weakening.

Lesaffer does not specifically address the weakening status of canon law, but his focus on written ratification is illuminating for this work because it indicates a move away from the oral tradition, which was central to customs associated with canon law and societal agreements. At the same time, it is also important to note that the trend towards written ratification and the weaker status of canon law did not immediately pave the way for the law of nations.¹⁰⁷ Instead, the medieval system of *ius commune* remained relevant for some time to come (Lesaffer 2004, 13).¹⁰⁸

From the sixteenth century, written ratification and taking an oath were two different acts; this leads Steiger to argue that there were two distinct legal systems at work, the law of nations and canon law (Steiger 2004); Lesaffer, however, is skeptical that there was a distinct law of nations at this time. Instead, he says that there were multiple legal systems at work, which included canon law, Roman and feudal law (Lesaffer 2004, 25). Overall, his account is more consistent with the narrative of the tradition of canonical status given in this work, which also suggests that multiple polities had diverse customary resources to draw upon in asserting their authorities, as well as

¹⁰⁷ Before 1648, there were “families” of peace treaties, or different kind of agreements for different purposes; Lesaffer completes an analysis of bilateral treaties in the 15th and 16th centuries to confirm this, which also showed that there was an absence of a general law of nations Lesaffer, R., ed., Ed. *Peace Treaties and International Law in European History: From the Late Middle Ages to World War One*. Cambridge, Cambridge University Press, 2004..

¹⁰⁸ For example, since the later Middle Ages, princes considered themselves “de facto, if not *de jure, superiorem non recognoscentes*” – 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* Ibid..

creating a complex set of traditions which the system of canon law itself drew upon from Gratian onwards.

Nonetheless, Steiger is correct in emphasizing the distinction between oral and written customs which were becoming more frequent in the late medieval period. Even if these distinctions may not have meant that there were two distinct legal systems at work, they did demonstrate that new customs associated with written ratification were being layered onto the oral traditions which had been instrumental in maintaining canonical status. For example, swearing an oath at the signing of a treaty made it truly binding under canon law (Lesaffer 2004, 26). However, one might wonder whether new written customs were being intentionally layered onto the existing canonical tradition as a means of reforming that system. In other words, were the new written traditions an intentional act of reform? Were they meant to weaken the existing system?

Lesaffer argues against this. He suggests that canon law's status was already weakening societally, and as society drew upon canon law less frequently, written ratification was simply what was left (Lesaffer 2004, 27). Stated differently, if the oral tradition was associated with canon law, and polities of international society were drawing upon canon law less, then Lesaffer seems to be implying that there was less reason to use the oral tradition to assert political authority. Written ratification became the newest resource for polities of international society to distinguish authority from one another. This split between polities drawing upon the practices associated with canon law, which had been the binding system of late medieval international society, is also reinforcing of the gradual fracturing of the relationship between the moral vision of late medieval international society and its organization which was facilitative of modern

international society. When polities drew upon customs associated with the tradition of canonical status less (the oral tradition), they subtly (and I would argue unknowingly) undermined the moral vision of the society.

Yet, even as polities drew upon the oral tradition associated with canonical status less, they still engaged in many practices which could be seen as drawing upon that same status. It is important to remember that even if multiple legal systems were at work, as Lesaffer reminds us of Roman and feudal law, no other legal system besides canon law could claim universality (at least in terms of geographical, societal space)—and this stayed true even while canon law was weaker in the sixteenth century.

The role of princes in fifteenth and sixteenth century treaty practices is particularly illustrative of how late medieval international society continued practices consistent with the tradition of canonical status. Princes were expected to negotiate peace treaties for the benefit of the entire Christian community and, as such, they signed in their own names. Specifically, they often pledged their “princely word,” which served as a reminder that they were fulfilling the obligations of an office (Lesaffer 2004, 25, 29). On the one hand, this demonstrates how princes were obtaining more authority as princes—and thus they relied less on ecclesiastical authority to grant it to them—which allowed them to assert *potestas regiminii* independently. This could be read as strengthening the secular arm.

However, exercising *potestas regiminii* independently could also be read in light of the tradition of canonical status. Once again, princes were claiming authority in the way they always had: by associating their jurisdiction with the canonical tradition; they did this by upholding the terms of treaties for the whole of the Christian community – and

not, at this point, for their subjects. Princes were not representatives of the members of their jurisdictions, which we know because it was not a given that heirs or subjects of princes would be bound by the terms of a treaty (Lesaffer 2004, 18-19).¹⁰⁹ Thus, when princes signed treaties in their own names, they obliged *themselves* to fulfill the terms – but how they went about ensuring that their jurisdictions followed suit was, quite frankly, each prince’s own problem.

Nevertheless, even if princes in particular were doing what they had always done in terms of claiming authority, there were significant changes in the sixteenth century which meant that their traditional behaviors had different implications; these changes were Tridentine Catholicism and the policy of *cuius regio, eius religio*, the consequences of confessionalization. Both of these consequences sought to implement uniformity of confessional practices in late medieval international society, and it is this attempt which contributed to the religion-politics split that I discussed in the last chapter. I revisit this with an eye towards the question, how did the religion-politics split of the sixteenth century contribute to the making of modern boundaries?

The religion-politics split

In the last chapter, I discussed how religion and politics became distinct from one another, and I argued that the processes whereby they distinguished themselves became the beginnings of an important new boundary based on identity; this new boundary made arguments about separate, different authorities more possible, and it introduced the idea

¹⁰⁹ Lesaffer explains that treaties often had to include separate provisions to specify if a prince’s vassals, subjects, and/or allies would be bound by the terms of the treaty.

that a geographical location could be tied to a political authority. I specifically write “a geographical location could be tied to a political authority” so as to intimate that this new arrangement between political authority and physical space was not the same as modern sovereign territoriality. As I mentioned in the last section, princes were not necessarily representatives of their subjects; such a relationship could be articulated in writing, but this would never have been taken for granted in the 16th century.

It is also important to note that the religion and politics split cannot be called a secular – spiritual split interchangeably. While the idea that there could be a “religious” peace distinct from a “political” peace certainly invited the idea that sometimes one or the other set of issues could be left out or highlighted, distinguishing the two did not mean that the two spheres had been neatly assigned to secular and non-secular actors.

Depending on how a prince chose to enact the policy of *cuius regio, eius religio*, his domain could have a stronger or weaker confessional identity.

Nevertheless, *cuius regio, eius religio* and Tridentine Catholicism introduced a new rigidity regarding confessional practices – a new rigidity which arguably contributed to the construction of modern confessional identities. Before the sixteenth century, the societal norm had been to mix categories across jurisdictions; the nations at the Council of Constance were an excellent example of this, considering they drew their authority from the tradition of the university (which, recall, was drawn from cathedral chapters) and exercised it in the Council. But now—from the sixteenth century onwards—Tridentine Catholicism and the policy of *cuius regio, eius religio* were emblematic of a new trend towards dividing up Europe on the basis of confessional identities. And these

different confessional practices would mean varied arrangements of political and religious institutions.

As I mentioned early on in this work, the usual outcome of the Reformations which IR scholars discuss is the secular (Protestant) nation-state. This was indeed an outcome of the Reformations era, but it is not the only one, and, if we look closely, few nation-states may actually be described as “secular.” Instead, it is possible to use the era of confessionalization in the sixteenth century to cast a wider net of confessional politics in international society. But in order to do so, it is first necessary to understand the importance of associating polity, identity and place with one another; these associations together made modern boundaries distinct from the tradition of canonical status which was built on the ongoing negotiation of place, identity and polity. The next section addresses how the invention of religion in the sixteenth century contributed to this modern understanding of associating polity, identity and place with one another.

The invention of religion and modern boundaries

The transition between these two types of political behaviors calls for separate analyses to do them justice. There is, however, not space in the context of this research to include such historical analyses here; such an analysis would have to encompass the eighteenth century, since the ideational differences between the late medieval and modern international societies began to be quite striking during the height of the Enlightenment period. As Hatzopoulos and Petitto argue, IR has “self-understanding as a party to the Enlightenment project” (5). Nevertheless, this research can take a critical step towards such historical analyses, which would be part of a broader research agenda. It can

contribute material to the question: how did IR arrive at a self-understanding as part of the Enlightenment project? Contrary to the popular belief that liberal, Enlightenment ideas came onto the scene because they were enlightened, their arrival after the era of confessionalization makes rational sense because it was now possible to separate political from religious authorities.

Thomas argues that modern international society is built on a “Westphalian presumption” which assumes that “religious and cultural pluralism cannot be accommodated in international society, but must be privatized, marginalized or even overcome –by an ethic of cosmopolitanism –if there is to be international order” (Thomas 2003, 23). Thus, he says, inherent to this presumption is the “invention” of religion, which was a critical part of the development of the state and international society (Thomas 2003, 23). He does not give a historical account of that process, but in light of the historical narrative of the long Reformations given in this research, it is not difficult to imagine that the Peace of Augsburg (in particular, but more broadly, the confessionalizing trend of the sixteenth century), played a significant role in “inventing” religion for international society. It was there that princes began introducing the idea of a distinct religious peace –an idea which was unheard of before because of the integrated fabric of the moral vision of late medieval international society and its organization, as illustrated by shared practices of societal congresses and the Eucharist.

To understand the importance of the invention of religion in the era of confessionalization though, we need to unpack Thomas’s argument regarding the relationship between the invention of religion and the Westphalian presumption further. He not only assumes the invention of religion as part of the project of modernity, but in

making this assumption, he also suggests that the invention of religion had specific implications for modern international societal organization: pluralism (religious and cultural) cannot be accommodated societally, so it must be contained or overcome by cosmopolitanism. In other words, I would argue that he suggests that the invention of religion makes it impossible to accommodate differences at the level of international society; in the context of this research, it is possible to add the historical argument that with *cuius regio, eius religio* local solutions had to be arrived at to accommodate divergences from confessional identities associated with jurisdictions. This could be the “privatizing” or “marginalizing” that Thomas refers to.

The invention of the religion, then, may have been a catalyst creating a need for local, contained governance solutions; eventually, taking into account many other variables, this need would translate into territorial, sovereign nation-states. But note, however, that inventing religion did not invent the nation-state. It fractured the coherence of the moral vision-societal organization relationship which had bound international society before, and in doing so, local jurisdictions had to find new ways to identify themselves. And at first, these new ways of identifying themselves were primarily confessional identities.

The nuances of this argument matter greatly: to reiterate, *the invention of religion did not invent the nation-state*. The invention of religion did introduce a new boundary, which was critical to modernity, the distinction between religious and political authorities. In doing so, it meant that it was now possible to define a polity on the basis of the religious behavior of its leaders and members, which in a sense inextricably linked religious and political behaviors together in the process of constructing polities of modern

international society. Such a conclusion lets us look at modern international society with a different lens, one that focuses on religious-political interactions as a norm because confessional politics was a central outcome of the Reformations era.

Even if new boundary between politics and religion inextricably linked political and religious institutions in the making of modern polities, the relationship between the two was now quite different than before the sixteenth century. Before confessionalization, it was a given that a theological matter had political implications; the more frequent question was, which polity would have authority in what context (e.g. theologians in councils vs. universities, the pope in universities, etc.)? “Religion” and politics were so linked that they did not need to be identified as such. But with *cuius regio, eius religio*, the two became as distinct as they were linked. What did this say about the relationship between the moral vision of late medieval international society and societal organization?

From a sixteenth century ecclesiastical perspective, this would be the place where Dante’s statement about the world staggering like a blind man into a ditch would be apt. Canon law was weakening in the sixteenth century and, as we saw, there was nothing coherent yet to replace it. Without canon law, international society lacked a source for arguing which practices were legitimate. Further, believers were divided from one another in a way that the church would consider schismatic – since they were practicing customs in such varied ways and organizing themselves autonomously consequentially—they were arguably no longer “of the body” of society. The moral vision and societal organization were no longer mirrors.

Of course, from an empirical perspective, they never were. What had changed was the expectation that they would be, empirically, mirrors of one another. What had happened to the “house of many mansions” and the tradition of canonical status, which had allowed myriad polities to coexist organizationally for centuries? What happened was a boundary which became formalized and concretized: the association of place, identity and polity.

The idea, however, of overcoming religious and cultural pluralism with a cosmopolitan ethic is highly ironic. This rings of Bull’s secular reincarnation of medieval international society, which I discussed early on in this work. Thomas also seems to be suggesting that the view in mainstream IR is that a universal ethic could overcome the complications of a pluralistic society—an idea which first suggests that such an ethic could be found, and second suggests that pluralism is something to be overcome societally. But what if, in fact, pluralism was not seen as something to be overcome or marginalized, but coexisted with? This is a lesson IR could draw from studying late medieval international society and earlier, for pluralistic authority (and confessional practices) was the norm historically. It was the invention of religion that made accommodating pluralism an issue. Hence, after this liberal ideas like religious freedom and tolerance would be necessary—but only because first, confessional lines were drawn in the sand. Perhaps this is why Kubalkova quotes Frohock: “Liberalism ... is not a suitable political philosophy to resolve or even manage disagreements over the meaning of human experience at the levels sometimes found in the spiritual-secular disputes” (Kubalkova 2003, 90).

Given this, how might we analyze confessional politics in IR differently? How might this more inclusive understanding of confessional politics inform the way we study religion and politics and myriad polities in modern international society? These questions invite a broader research agenda coming out of this work, and I will bring them into a final broad discussion in the last part of this chapter. But first I offer some final thoughts on the nature of this new boundary between politics and religion, especially the question of what was modern about it.

From identity-based boundaries to spatially-based boundaries

In *Right Use of Power*, a training program in ethics for people in helping professions, Cedar Barstow, psychotherapist, discusses how boundaries “define and protect.”¹¹⁰ In her view, “They embody separation and they can be negotiated to enable ... merging” (Barstow 103). In the training program, she pays particular attention to the necessity of boundaries in relationships of power, which all client-professional relationships are. The professional has the resources to assist the client in the midst of difficult situations, but in having these resources, the professional also has the power to do significant harm to the client if he or she uses his/her power inappropriately. And one particularly inappropriate use relevant for this research would be if the professional drew

¹¹⁰ The understanding of boundaries which I adopt is based on the work of a psychotherapist who teaches practical ethics for people in helping professions. While this may seem a far cry from fifteenth and sixteenth century Europe, again I remind readers that the *norm* in the (late) medieval period was the overlapping of authorities, and the mixing of categories and boundaries—which meant, of course, that participants of late medieval international society most certainly had categories and boundaries. But negotiating them was the norm. In twenty-first century modern international society, psychotherapists, ministers, social workers, physicians, and others in the “helping” professions are in the unique position of being forced to think daily about how their professions require them to define the limits and responsibilities of professional and non-professional contexts. These boundaries must be specific but they also must be permeable; and it this flexible stability that is similar to late medieval international society’s polities’ boundaries.

on his or her professional resources *outside* a professional context. This would be not unlike a public official being invited to a private family dinner with no special agenda other than sharing dinner, but the public official used this as an opportunity to influence the family members, who happen to be an important family in another country's politics.

It would be easy to say, so what?, since of course this happens all the time in politics. This does not, however, change the fact that it constitutes a boundary crossing. It is useful to develop an awareness of these kinds of boundaries precisely because, particularly in IR, we are used to thinking of boundaries as spatial differentiation. But I would argue that we need an understanding of boundaries like Barstow's before we can consider how spatial boundaries became part of the picture because, historically, physical, territorial boundaries are relatively new.

This understanding of boundaries used in the context of professional ethics is not unlike the late medieval understanding of boundaries based on authorities associated with offices. In fifteenth and sixteenth century Europe, when one held the office of *potestas magisterii*, *potestas regiminii* and/or *potestas ministerii*, there were corresponding responsibilities that the officeholder took on. "Ministering" included administering the sacraments and providing pastoral care; teaching included preaching as well as lecturing and interpreting of Scriptures in educational settings; and ruling included all the day-to-day governance of property, taxation and law. Each of these responsibilities were distinct, and so the boundaries of what could be considered "teaching," for example, were clear. However, in late medieval international society the boundaries of who could take on these offices were more permeable.

Consider, for example, how the theologian conciliarists had much more power in setting the agenda of the Council of Constance, but by the era of confessionalization in the sixteenth century, princes had much more of a role in setting the agenda. But consider also how much more work the princes had to do in order to assert the policy of *cuius regio, eius religio*, which gave them the authority to rule in their own realms, in the context of an international society that was not based on exclusivity of authority in geographical spaces. And finally, ministering also was a permeable role: as my discussion of the “Eucharistic controversy” demonstrated, changing practices of the central, contractual ritual of the Church was changing the outline of the relationship between members of the Church hierarchy and the laity.

As I have emphasized, different understandings of the hierarchies of order and jurisdiction were to be expected in late medieval international society; however, circling back to how this chapter began, with the centralization of Romanness—as manifested via papal supremacy—and the policy of *cuius regio, eius religio*, boundaries associating specific offices with specific polities were becoming much less flexible. Through these changes, ruling was becoming *specifically* associated with princes, teaching *particularly* with theologians, and ministering the sacraments exclusively with the Church. These new polity-office boundaries reinforced that politics and religion were now distinct. From the sixteenth century, they became more like separate threads woven together—woven together inextricably certainly, since this was by no means anywhere near the unique form of the separated church and state that today is present in only a few countries.

Noting that the politics-religion split and the new association of polities and offices did not lead inevitably to the separation of church and state is important for a

couple of reasons. First of all, it frees us from a common misconception that because of the separation of church and state, the modern period has little in common with late medieval international society. On the contrary, I would suggest that research on the era of confessionalization raises questions about how the *interdependent* relationship between politics and religion was built by means of introducing the new boundary between the two. Second, and related to this point, focusing on this interdependent relationship between politics and religion that from the sixteenth century coexisted with them being distinct allows us to ask questions regarding how spatial distinctions eventually came into the picture. Did princes, for example, begin to rely on a consistent geographic space as a resource for carrying out the policy of *cuius regio, eius religio*—making them eventually argue for their authority associated with that space? Was it possible to argue for the sanctity of a geographical space on the basis of the universal, moral vision of late medieval international society—thus justifying something new with the values which had held late medieval international society together? These are questions that another research endeavor will have to address.

What's next for international relations research and late medieval international society?

As I mentioned earlier in this chapter, there are two specific areas of research in international relations that this work speaks to in particular. These are: first, the broad research agenda encompassing discussions regarding changes and challenges to sovereignty; and second, the relationship between politics and religion within polities of modern international society, as well as discussions regarding the role religion plays within international politics. As is probably apparent to the astute international relations

reader, this second area of research actually encompasses a set of overlapping questions that are usually assigned to domestic politics and international politics, respectively. I will not have time to delve fully into the nuances of approaches required to follow up these overlapping questions, but I do want to acknowledge that these questions are distinct. I will discuss sovereignty first, and then proceed with the discussion regarding politics and religion, so as to end with the discussion that is most directly relevant to the research addressed in this work.

Sovereignty

While it is by no means mainstream international relations, there have been an increasing number of studies considering the historical construction of sovereignty within international society. Some of these studies I discussed early on in this work; for example, Philpott's *Revolutions in Sovereignty* and Spruyt's *The Sovereign State and its Competitors*. However, there are also a number of articles considering concepts such as "shared sovereignty" (Krasner 2004) "divided sovereignty," and "pooled sovereignty" (Newman 1996; Leeds 2004) Some of these arguments also explore the relationship between hierarchy and these concepts (Martin; Donnelly 2006), which introduces the idea that sovereignty, even in modern international society, need not always be the domain of equal, territorially-bounded polities (modern nation-states).

There are also some political economy arguments that states use their sovereignty as a bargaining chip in international affairs, with some scholars even calling this the "commercialization" of state sovereignty (Mattli 2000; Palan 2002). Such an idea seems to rely on sovereignty being something that can be parceled up, handing slices of it to

different actors with different roles and responsibilities. This is not unlike the way polities within late medieval international society had different responsibilities and degrees of authority in different contexts. For example, masters and students in universities had different responsibilities in the context of the university setting and different ones in the setting of councils.

However, as much as it is possible to begin drawing parallels between current trends in the organization of polities in modern international society and late medieval international society, more historical work would be necessary first. It would be critical to draw out how the traditions late medieval international society contributed to the making of modern sovereignty; in this work I have intentionally avoided explicit discussions of this nature because my goal was to emphasize the importance of traditions that contributed to the authority of governance by myriad polities. Since governance by non-state actors within international society is still usually regarded as aberrant in a society built on state sovereignty, the historical narrative I gave drew attention to how normal it was for myriad polities to share authority. Nevertheless, looking back on the period covered here with the question, how did the tradition of canonical status contribute to the making of modern sovereignty?, would be a valuable question. Answering it with further historical research would lead to a more nuanced understanding of the concept of sovereignty, and this could be invaluable for understanding current concepts like “divided” or “shared” sovereignty.

So, for example, another study might start with the modern ideal of state sovereignty and trace how the tradition of canonical status allowed territoriality to come into the picture—while still leaving behind the remnant of a tradition that left room for

trends like “sharing sovereignty” and “selling sovereignty.” An approach like this would be consistent with the argument in this research that the Reformation era did not mark a break with the past; the sovereign, territorial nation-state may be as traditional as the tradition of canonical status and the myriad polities that drew upon it.

In taking such an approach, one place to start would be the policy of *cuius regio, eius religio* itself. This policy has already been a focal point for some IR scholars, inviting analyses about analyses about state formation. However, at this point, no IR scholar has given an account from Augsburg to Westphalia, tracing the state formation process from the religion-politics split of the sixteenth century. Indeed, further research could reveal that the historical path towards territorial sovereignty should be longer than from Augsburg to Westphalia.

Cuius regio, eius religio is also a good starting point to begin discussing the other area of research derived from this work, the relationship between religion and IR.

Religion and IR

As I mentioned earlier in this chapter, the sixteenth century had a particular role in “inventing” religion by means of introducing a strong distinction between religion and politics; this was a distinction that introduced an interdependent relationship between religion and politics, whereas previously they had been inseparable. This change had implications for modern IR not just because politics and religion became distinct from one another—thus inviting the possibility of the “separation of church and state”—but because the Peace of Augsburg made it possible for these distinct realms to become intertwined with one another.

The latter, the possibility of imagining the separation of church and state, is an example unilinear thinking. This is the type of thinking that this research has sought to stay away from, by focusing on the continuing relevance of traditions within international society. In this research, those traditions have been expressed via the tradition of canonical status. Thus, although it is important to notice that the religion-politics split of the sixteenth century may have indeed made room for later policies of state secularism to develop, it is also important to notice that this is not what the policy of *cuius regio, eius religio* did. In fact, it did the exact opposite, by allowing princes to determine religion within their own realms. This, I would argue, looks much more like what current IR scholars call “confessional politics” or “confessionalism,” which identify associating the organization of a government with the distribution of religious identities within a country (Harb 2006).

This is not the same thing as *cuius regio, eius religio*, of course. Proportional representation was unheard of in the sixteenth century. Nevertheless, there is a much closer resemblance between a government organized on the basis of confessional politics and the policy of *cuius regio ...*, since it allowed the prince to determine the religion within a given space (his realm). The modern phenomenon of confessionalism illustrates how religion still can have an interdependent relationship with politics, even while the two are separate, much like the sixteenth century. It would be worth investigating the historical influence of *cuius regio, eius religio* on modern confessionalism; such an investigation would ideally also clarify the critical differences between sixteenth century and modern confessionalism.

However, this research does not just inform a small minority of contemporary governments, but also how IR approaches religion more broadly. As Hurd explains, IR's unquestioned acceptance of a division between religion and politics is based on an expectation of secularism. As she adds, the "global resurgence of religion" does not fit with current expectations about what international politics should be (Hurd 2008, 1). With more time, future analyses would have to ask a whole range of questions: whether Hurd is correct that there is a "global resurgence of religion," what this is, whether IR scholars expect secularism, what they mean by secularism, etc. However, setting these questions aside, Hurd is inviting her readers to look more closely at what we are calling "secular" and "religious." In light of the brief introduction of confessionalism and *cuius region, eius religio* I just gave, what if we were to look at other states, asking whether they are secular or not, of perhaps whether they display a style of governance that looks more like the interdependence arising from the sixteenth century? Is Germany a secular state, for example? What about the United Kingdom? (Doe 1998). Both of these states have formal, legal relations associating religion with politics domestically. If we did examine more nation-states in light of being interdependent political-religious states, perhaps the global resurgence of religion would look less startling.

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