

Sovereignty Contested: Vattel's Use of Hobbes, Pufendorf and Leibniz

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The modern state is the institution to which human beings have entrusted the coercive power they deem necessary and legitimate to regulate the lives that they lead together in a bounded community. The name for the legitimate coercive power of the modern state is sovereignty. The state is sovereign internally because it possesses the effective *monopoly* on this legitimate coercive power within its own clearly demarcated territory; it gives force to the law that it makes. It is also sovereign internally because it is the only *author* of the laws that have jurisdiction within its territory. The state is sovereign externally because its monopoly of power within its boundaries excludes its domination by or dependence upon any other state. It is also sovereign externally because its sole authority over itself means that it brooks no interference from other states affecting its constitution or government, and nor does it accept the writ of other states. It is, in short, subject to no other power or authority, and must chart its own course as a *free actor* on the world stage. Finally, the modern state is externally sovereign because it is the only entity in a position reciprocally to *recognise* others as its sovereign equals. There is no higher authority from which a modern state may draw its claim to assume for itself the powers of the earth.

These are conventional definitions and distinctions. Emer de Vattel's principal contribution to the political theory of the state and its sovereignty, it has been argued, was to focus squarely on the character and implications of the external sovereignty of the state, which too often had only been implicit in theories focussing overwhelmingly on internal sovereignty. Vattel's *Law of Nations* is a book about the diplomatic and commercial consequences, both practically and normatively, of the independence of sovereign states in their dealings with each other. 'The law of nations is the law of sovereigns: free and independent states are moral persons, whose rights and obligations we are to establish in this treatise' (LN I-1-12). Vattel was keen to insist that external sovereignty means that a state must be free from interference by outside powers in its internal affairs. 'No state', he maintains, 'has the smallest right to interfere in the

government of another' (LN II-IV-54). Moreover, external sovereignty indicates that no state be dependent on any other to the extent that its liberty is curtailed. 'Every nation', he writes, 'that governs itself, under what form soever, without dependence on any foreign power, is a *sovereign state*' (LN I-I-4). Vattel's is a book written on the basis of a change of perspective: it has less regard than some earlier treaties on sovereignty of its vertical dimensions within the state than of its lateral implications, as a plurality of sovereign states must coexist together in an international system. According to Stéphane Beaulac, Vattel thus did nothing less than 'externalise' the concept of sovereignty, transposing it 'from the internal plane to the international plane'.¹

Yet these conventional definitions and distinctions begin to chafe when we put them under pressure. With respect to internal sovereignty, the definition above concerns the state's power and authority over potential objects of control within its borders. Theorists focusing on the internal sovereignty of a state, however, are as likely to want to see it as turning on the relationship between constituent and constituted powers, between the power and authority of the political community and its members and the power and authority of those who must discharge sovereign responsibilities. With respect to external sovereignty, we are bound to say that the state's internal constitution as a juridical object will impact on the kind of freedom that it can exercise and the nature of the relationships that it can establish. The 'absoluteness' of its liberty is not only compromised by the empirical limits to its exterior power but also in virtue of the state's existence as a particular kind of legal and moral entity.

The *Law of Nations* is not merely a book about external sovereignty as independence. Vattel writes about sovereignty in its multifarious manifestations. I have given thought to various ways of providing an account of Vattel on sovereignty in this chapter. I considered writing a conceptual and textual analysis under the fourfold headings of power, authority, liberty and recognition, as per the definitions and distinctions given at the outset; but in view both of their interweaving and what they leave out, I soon put that idea aside. I also contemplated a systematic and philosophical threefold, whether an Aristotelian one on *efficient* (constitutional relations of sovereignty), *formal* (the state's sovereignty over itself) and *final* (international) dimensions of state

¹ S. Beaulac, *Power of Language in the Making of International Law: The Word 'Sovereignty' in Bodin and Vattel and the Myth of Westphalia* (Leiden, 2004), 133.

sovereignty, or an Hegelian one, on the sovereign state *in itself* (on the essence of relations of sovereignty inside the state), *for itself* (the ‘comprehension’ of those relations when the state is at home with itself) and *in-and-for* itself (when the state finds itself in the other). As tempting as each of these manners of presentation was, they seemed to me to be unhistorical: anachronistic in the first case and proleptic in the second. In the end, I have proceeded analogically, and therefore in accordance with the twofold relationship of source and target domains. This is how Vattel himself proceeded, so it has that to recommend it.

The analogy is between the person and the state. The first great theorist of the modern sovereign state, Thomas Hobbes, in a rare digression on its external dimension, wrote that each state has ‘an absolute Libertie, to doe what it shall judge’ conduces to its own benefit.² And as Isaiah Berlin argued in a celebrated (if gendered) elucidation of liberty, ‘conceptions of freedom directly derive from views of what constitutes a self, a person, a man’.³ It is thus no coincidence that Hobbes understood the modern state as analogous to the person, in a move which Vattel recognises as decisive in establishing the modern field of international law, and which he will continue (LN, Pref.). In this chapter, I draw out some implications of Vattel’s description of sovereign states as *moral persons*.

In the first section, I trace the outlines of the state-personality tradition from Hobbes through Samuel Pufendorf, with whom the moral person locution originates, to Vattel. In the second, I argue that we can learn more about the kind of freedom that Vattel considers to be characteristic of states as moral persons from the writings of one of his chief influences, namely G. W. Leibniz. Leibniz had an entirely different account of what it means to be a free agent than, for instance, Hobbes and Pufendorf. Real freedom, according to Leibniz, requires the achievement of self-consciousness in thinking and enabling the mind’s ability to attend to the world – both of which capacities are heightened through the publicity of ourselves to others and acting together with them. In the third section, I show how these contexts bear on Vattel’s sense that the internal and external sovereignty of states are amplified by their association with one another in accordance with rules that they have mutually established. This chapter therefore

² T. Hobbes, *Leviathan*, vol. 2: *The English and Latin Texts* (i), ed. N. Malcolm (Oxford, 2012), chap. 21, 332.

³ I. Berlin, ‘Two concepts of liberty’, in *Liberty* (Oxford, 2002), 181.

seeks to provide an account of what is perhaps the master concept in Vattel's political lexicon, but it does so in terms of his navigation between some rival traditions of conceiving of free human agency and community.

THE SOVEREIGN STATE AS MORAL PERSON

It is to Hobbes that we owe the modern concept of the sovereign state. His framework was a theatrical one. The word 'person', he wrote in chapter 16 of *Leviathan* (1651), was originally a dramaturgical term, naming the mask donned by an *actor*, the purpose of which was to help him to project his voice (hence the etymology: *per* and *sona*, 'through' and 'sound') but also to make clear to the *audience* an important intention of the *author* of the play, namely to signify the *character* that that the actor had assumed. Soon enough, Hobbes argued, the concept of person had been stretched to refer to anyone who represented another, including some inanimate thing, not only onstage but even in a court of law, by speaking for them. As he only got around to clarifying in chapter 42, it was further extended to apply to the representee, by being spoken for. Developing the political implications of his account of personhood in chapter 17, Hobbes argued that when the 'multitude' – his name for the agglomerate of individuals and family heads living together on some territory but without a common power to keep them from harming each other – speaks together, with one voice, to confer their own capacities and claims of self-defence on some nominated individual or group, then we can point to the new presence of three kinds of person. First, each person of the multitude has authorised the power of that individual or group on whom they have bestowed their powers and rights of self-preservation, so that each person of the multitude is individually an *author* of something. Second, the individual or group which has been so authorised to act for the collective protection of the covenanters has taken up a role and thus become an *actor*: the sovereign. The name of the third person, that of the *character* played, is, said Hobbes, the state. The appellation that is given to the *performance* is sovereignty. Each particular author of the state, then, has given up his powers of self-defence, including his right to judge what is a threat to him, to the person of the state. Yet the state only ever speaks directly once, when all together unanimously and univocally say 'Him!' or 'Them!'; thereafter, the state only speaks and acts through its representative, because that is the deal to which the covenanters have explicitly signed up. Everything that the authorised individual or group says and does

thereafter counts as authorised by each individual and, more to the point, as the words and deeds of the state itself, for the sovereign is but an actor, playing the part of the state, however terrifying and world-changing that performance may be.⁴

Hobbes' state is the abstract or fictional person in whose name sovereignty is exercised by its authorised representative. This is a conception of the state and sovereignty taken up almost entirely by Vattel. Hobbes had now done most of the hard work of thinking about the internal sovereignty of the state, for his concerns were principally about civil war, and he arrived at his person-theory precisely because he regarded the hegemonic metaphor of political society as a 'body politic' as further contributing to political strife by inviting the question as to whether its life source – its sovereignty – lay with the (monarchical) head or the body (of the people).⁵ It is necessary, though, to acknowledge a further influence on Vattel's picture of the state: Pufendorf's theory of the state as a moral person. In *The Law of Nature and Nations* (1672), Pufendorf maintained that Hobbes' elaborate theatrical metaphor devalued human personhood, which was, according to Pufendorf, properly about rational freedom. Rational freedom entailed that action was the consequence of the mental faculties of the understanding and the will each making its proper contribution to that deed. In the case of the understanding this was to uphold the action's rationality, and in the case of the will this meant safeguarding the freedom of the choice of that act.⁶ Human exploits, after all, leave behind them 'moral effects', and any conceptualisation of personhood as fundamentally involving a guessing-game about the attribution of words and deeds, as turning on the relationships between authors, actors and characters, left little distinction in place between ethics and aesthetics, valuing human endeavours 'only according to the Dexterity and Artifice of the Performance'.⁷ Like Hobbes, however, Pufendorf went on to declare that the state was also a person, but because the state was

⁴ The best systematic account of Hobbes' person theory of the state is now S. Fleming, 'The two faces of personhood: Hobbes, corporate agency and the personality of the state', *European Journal of Political Theory* (online early, 30th October 2017, DOI: [10.1177/1474885117731941](https://doi.org/10.1177/1474885117731941)).

⁵ Q. Skinner, 'Hobbes and the concept of the state', in *From Humanism to Hobbes: Studies in Rhetoric and Politics* (Cambridge, 2018).

⁶ I have written about Pufendorf's faculty psychology at greater length in B. Holland, *The Moral Person of the State: Pufendorf, Sovereignty and Composite Politics* (Cambridge, 2017), esp. 78-80.

⁷ S. Pufendorf, *The Law of Nature and Nations*, ed. J. Barbeyrac and B. Kennet, 5th edn. (London, 1749), I.I.15.

constituted in such a way that it emulated the human person who governed himself (*sic*) according to the twofold work of understanding and will. In a decently constituted state, Pufendorf held, these capacities would be represented by a council of advisors and a sovereign prince respectively. Pufendorf sought to guard against a malevolent or capricious sovereign will by arguing that the exercise of will in the human person was circumscribed by certain conditions, such as the cognisance of there being some reason to act at all, which were the province of the understanding, and that the same conditions applied for the application of sovereign will in the state. A king simply could not will something if his counsellors did not deem it reasonable.⁸

Vattel's understanding of the state and its sovereignty sits very clearly in the person-theory tradition coming down from Hobbes through Pufendorf. His definition of the state is this:

A political society is a moral person inasmuch as it has an understanding and a will of which it makes use for the conduct of its affairs, and is capable of obligations and rights. When therefore a people confer the sovereignty on any one person, they invest him with their understanding and will, and make over to him their obligations and rights, so far as relates to the administration of the state, and to the exercise of the public authority. (LN I-IV-40)

We can take note of Vattel's adoption of Pufendorf's terminology in relation to the state, namely its categorisation as a moral person. Vattel, moreover, seems to have a conception of a people as pre-existing their incorporation into the state, and this is powerfully *not* Hobbesian, for Hobbes repudiated entirely the notion that individuals and families living together before the state had any kind of corporate identity, or that sovereignty was something that could antedate the state. Pufendorf, on the other hand, had been prepared to grant that individuals and families might inhabit a 'society' before they were united as one under the abstraction of the state.⁹ And yet

⁸ Holland, *Moral Person*, 80-93. See also Ian Hunter, 'The invention of human nature: The intention and reception of Pufendorf's *entia moralia* doctrine', *History of European Ideas* 45 (2019), 933-52.

⁹ T. J. Hochstrasser, *Natural Law Theories in the Early Enlightenment* (Cambridge, 2000), 87-92; I. Hont, 'The language of sociability and commerce: Samuel Pufendorf and the theoretical foundations of the "four-stages" theory', in *Jealousy of Trade: International Competition and the Nation-State in Historical Perspective* (Cambridge, MA, 2005).

then Vattel makes a move which looks much more absolutist than anything advanced by Pufendorf, which is to argue that the granting of sovereignty to a single person involves the renunciation of ‘understanding *and* will’.

Pufendorf defined the state as ‘a Compound Moral Person, whose Will, united and tied together by those Covenants, is deemed the Will of all’.¹⁰ He scrupulously left the capacities of understanding belonging to the contractors out of this process involving the forfeiture of faculties. His state has an understanding of its own, represented by a council, but the understandings of the parties to the social contract are not relinquished to that individual whom Vattel calls the ‘conductor of the state’, the sovereign. For Vattel, however, state-making involves simultaneously the bestowal upon the sovereign not only of our executive capacities of choosing and deciding but also our cognitive capacities of judging and reasoning. Vattel’s sovereign does not simply play the part of the state on the world stage, as its representative; he, the ‘depository of empire’, absorbs it almost without residuum (LN I-IV-42). The ‘moral person resides in those who are invested with the public authority’, Vattel argues later (LN I-XI-117). One might be forgiven for thinking that Pufendorf’s constitutionalist controls on sovereign will have vanished in Vattel’s moral person of the state.¹¹

REASON, WILL AND FREEDOM IN THE LEIBNIZIAN TRADITION

Understanding and will are evidently critical to Vattel’s theory of the state and its sovereignty. His moral person of the state comes into being as a sovereign entity precisely when individual faculties of understanding and will are alienated by its prospective subjects to a single ‘director’ (LN I-XXI-259). The terminology is principally from Pufendorf but, in a twist, Vattel’s theory appears to take a much more absolutist turn.

¹⁰ Pufendorf, *Law of Nature*, VII.II.13.

¹¹ See also the chapters by Antonio Trampus and Alberto Clerici in this volume.

However, all is not as it may seem. This is because Vattel's thinking about the state and its sovereignty was at least as significantly influenced by Leibniz as by Pufendorf.¹² Vattel's first publication was in fact a *Defence of the Leibnizian System* (1741), for 'everyone now talks about the Leibnizian philosophy, and yet few people have a proper idea of it' (DSL Pref. [unnumbered]). Most of the book consists of long quotations from Leibniz's *Theodicy* (1710), in which that universal genius had argued that our world is the best possible world – and in fact Vattel's argument is even more optimistic than Leibniz's, such as Vattel's insistence that 'ALL IS GOOD in relation to God' (DSL 49). (Leibniz himself had concluded that the bad that necessarily existed in the best possible world would still be bad in God's eyes.) Vattel, though, endorsed comprehensively Leibniz's account of freedom and the relationship of understanding and will in securing it (DSL 248-50). Leibniz's thought is complex and architectonic, and a compressed account of any aspect of it will inevitably be crude and incomplete. Simply put, though, Leibniz posited an argument about freedom which arrogated the will as a power to choose between reasons for acting to the faculty of understanding, reconceiving will as a zeal or resolution on the part of the agent to be increasingly self-conscious in the process of action. As I shall try to spell out below, I think that grasping Vattel's Leibnizian ontology takes us a long way towards apprehending why his theory of internal sovereignty is not as absolutist as initially supposed; that is to say, it is not prepared to give up constitutional protections of citizens for the sake of a strong sovereign will. It also undergirds Vattel's emphasis on the external dimension of sovereign agents interacting with each other.¹³

Leibniz argued against a tradition – one of the adherents of which was Pufendorf – of conceiving of freedom as 'indifference' to causes, secured by a free will which can act or not act in the presence of all antecedent conditions.¹⁴ The three ingredients of his alternative conception

¹² By and large, Vattel sided with Leibniz over Pufendorf wherever the two disagreed, such as on the proper definition of law. See FNL, 766. I do not in this chapter deal with the (admittedly even greater) impact on Vattel's thought of Christian Wolff, who inspired many of Vattel's ideas in his own right as well as indirectly mediating many of Leibniz's concepts and theories. For Wolff's influence on Vattel, see the chapter by Ere Nokkala in this volume.

¹³ L. Glanville, 'Responsibility to perfect: Vattel's conception of duties beyond borders', *International Studies Quarterly* 61 (2017), 385-95, covers some other Leibnizian influences on Vattel's international theory.

¹⁴ See Holland, *Moral Person*, 32-37; and B. Holland, *Self and City in the Thought of Saint Augustine* (New York, 2019), 52-57.

of freedom were, firstly, ‘intelligence, which involves a clear knowledge of the object of deliberation’, secondly ‘spontaneity, whereby we determine’ ourselves, and thirdly ‘contingency, that is, in the exclusion of logical or metaphysical necessity’.¹⁵ The third of these components is easiest to deal with quickly. The exclusion of metaphysical necessity means that God chose freely from all the possible worlds the world in which this particular action took place and that His choosing was not caused by something outside of Himself, which of course it never is. The exclusion of logical necessity entails a distinction, within the possible world that God has chosen to actualise, between the essences of things that even God cannot alter (that a circle is round, for example) and the essences of things which could very well have been otherwise (God could have created a world in which Julius Caesar did not cross the Rubicon, Leibniz held, because the opposite of ‘Caesar crossed the Rubicon’ involves no contradiction).¹⁶

Leibniz’s condition of spontaneity is even more contentious as an aspect of freedom. He meant by it that every free substance is the causal source of all of its own non-initial states. This ends up being a trivial condition of freedom, because every single human action is spontaneous according to Leibniz. ‘Our spontaneity’, he wrote, ‘admits of no exception at all, and external things have no physical influence on us at all’.¹⁷ To know the full concept of ‘Julius Caesar’ is not only to know that the predicate ‘crossed the Rubicon’ is included in that concept, but it is also to know, in virtue of the fact that all attributes are relational and conjunctive, that the Rubicon would cease to be the northern border of Italy seven years after his crossing it, and that all of Italy’s borders would be closed on 9 March 2020. ‘If we consider carefully the interconnectedness of all things, we can say that in the soul of [Caesar] there are for all time remnants of everything that will happen to him – and even traces of everything that happens in the universe, although it is only God who can recognise them all’.¹⁸ Every living substance is ‘a perpetual living mirror of the universe’, and

¹⁵ G. W. Leibniz, *Theodicy: Essays on the Goodness of God, the Freedom of Man and the Origin of Evil*, ed. A. Farrer and E. M. Huggard (London, 1952), 303.

¹⁶ Leibniz, *Theodicy*, 242, on the essence of circles; G. W. Leibniz, ‘Discourse on metaphysics’, in *Philosophical Texts*, ed. R. S. Woolhouse and R. Francks (Oxford, 1998), 65, on Caesar crossing the Rubicon.

¹⁷ Leibniz, *Theodicy*, 304.

¹⁸ Leibniz, ‘Discourse’, 60.

just as the same town when seen from different sides will seem quite different, and is as it were multiplied *perspectivally*, the same thing happens here: because of the infinite multitude of simple substances it is as if there were as many different universes; but they are all perspectives on the same one, according to the different *point of view* of each.¹⁹

What this finally comes down to is that each substance, as a microcosm of all Creation, is the cause of its own successive states, which are representations of the complete physical universe. 'For it is plain that every simple substance embraces the whole universe in its confused perceptions or sensations, and that the succession of these perceptions is regulated by the particular nature of this substance, but in a manner which always expresses all the nature in the universe'.²⁰ If a man sneaks up behind a dog while it is eating from its bowl and whacks it with a stick, still the 'principle of change' from pleasure to pain 'is in the dog', for the dog 'acts upon itself, in so far as it is disposed and influenced by this representation' of the universe which includes the blow, and produces its own subsequent state, advancing it to the next representation of the entire universe.²¹ In this respect are its actions spontaneous.

Intelligence, then, must be the most decisive capacity in securing human freedom, and indeed Leibniz described it as 'the soul of freedom'.²² Such intelligence, however, does not assure for the agent the kind of indifference to causes that had been the mainstay of older accounts of free will. Every action taken by a human being, he argued, has a cause, and intelligence is purely the capacity to be cognisant of such causes so that they become reasons. The agent who acts freely, in Leibniz's eyes, is one who acts self-consciously with respect to her motives. Leibniz simply had no conception of will as a facility of moving oneself to action on the basis of a power to choose freely between different reasons for action. Understanding 'in the mind of a wise being, and motives in any mind whatsoever, do that which answers to the effect produced by weights

¹⁹ G. W. Leibniz, 'Monadology', in *Philosophical Texts*, §§ 56-57, 275.

²⁰ Leibniz, *Theodicy*, 365.

²¹ Leibniz, *Theodicy*, 428.

²² Leibniz, *Theodicy*, 303.

in a balance', and choice always 'follows the strongest inclination'.²³ The ends of action are first in respect of intention; and 'the representation of the end in the soul is the efficient cause of the representation of the means in the same', so that the cognitive perception of the best means to an end determines the choice itself.²⁴ Will as a capacity to choose is completely subsumed by understanding, and that is entirely determined, or so it seems, by a causal chain over which the human being has no control.

Leibniz's will, however, has two sides: it is a faculty of choice wholly subservient to understanding, but it is also a conscious force, 'effort or endeavour' on the part of the human being to attend to the world. Leibniz more often called this aspect of the will 'volition'.²⁵ Although ideas in the mind are formed 'in accordance with our nature and that of things', so as to be beyond our control, the process of thinking is driven in part also by a *desire* over which free agents can exercise some direction.²⁶ 'This one thing we recognise to be within the power of the will: to command attention and exertion'.²⁷ What we know and remember can be consequent on how we direct our attention and how hard we try. And volition in the present may positively affect volition in the future:

Although our choice *ex datis*, with respect to all internal and external circumstances taken together, is always determined, and although, for the present, we cannot alter our will, it is true, nevertheless, that we have great power with respect to our future volitions, by choosing to be attentive to certain objects and by accustoming ourselves to certain ways of thinking. In this way we accustom ourselves to resist [certain]

²³ G. W. Leibniz, 'Leibniz's fifth paper to Samuel Clarke', in *Philosophical Papers and Letters*, 2nd edn., ed. L. E. Loemker (Dordrecht, 1969), 696; G. W. Leibniz, 'Letter to Coste, on human freedom', in *Philosophical Essays*, ed. R. Ariew and D. Garber (Indianapolis, 1989), 194.

²⁴ G. W. Leibniz, 'Animadversions concerning certain assertions of the *True Medical Theory*', in F. Duchesneau and J. E. H. Smith (ed.), *The Leibniz-Stahl Controversy* (New Haven, 2016), 23.

²⁵ G. W. Leibniz, *New Essays on Human Understanding*, ed. P. Remnant and J. Bennett (Cambridge, 1996), 172.

²⁶ Leibniz, *Theodicy*, 364.

²⁷ G. W. Leibniz, 'Critical thoughts on the general part of the principles of Descartes', in *Papers and Letters*, 384-5.

impressions better and have our reason behave better, so that we can contribute to making ourselves will what we should.²⁸

Or as he put it in the *New Essays*, although ‘we cannot will what we want to, just as we cannot judge what we want to, we can nevertheless act ahead of time in such a way that we shall eventually judge or will what we would like to be able to judge or will today’.²⁹ In this way might mind ‘work from afar’ to cultivate a growing control over itself.³⁰

One of the ways in which a person may ‘prepare the mind in advance’, according to Leibniz, is ‘by training [it] to follow a definite series and method when thinking, so that later the required attitude offers itself spontaneously’.³¹ He argued that human beings think for the most part with words. We can use words ‘philosophically’, as mnemonic devices, to draw inferences, to verify propositions and to heighten the powers of the imagination. There is also, though, the ‘civil use of words’, when we use them to communicate our thoughts to others and in the ‘practice of civil life’.³² The philosophical use of words can fall victim to error particularly when ‘ideas are very composite’, while the civil use of words can lead to incivility because words are often oblique or multifarious, ‘as are those of most moral words’, which ‘have seldom, in the minds of two different men, the same precise signification’, and also because the imaginative connotations of words can excite sensibilities that cloud common understanding.³³ Leibniz’s solution to these problems, on which he worked for much of his life, was his universal characteristic.³⁴ This was to be a method for providing rules for the substitution of thoughts by characters and for the combination of characters, so that one could express formally the composition of any concept on the basis of a set of primitive concepts, such that ‘that there will be no equivocations nor ambiguities, and everything which can be said intelligibly will be said

²⁸ Leibniz, ‘Letter to Coste’, 195.

²⁹ Leibniz, *New Essays*, 182.

³⁰ Leibniz, *Theodicy*, 158.

³¹ Leibniz, ‘Critical thoughts’, 388.

³² Leibniz, *New Essays*, 334-5.

³³ Leibniz, *New Essays*, 335.

³⁴ M. R. Antognazza, *Leibniz: An Intellectual Biography* (Cambridge, 2009), 92-100.

properly'.³⁵ The universal characteristic would also supply rules for the transition from expression to expression in a 'chain of definitions' and according to a calculus for expressing the relations of identity and inclusion between concepts.³⁶ Thus, 'a certain alphabet of human thoughts can be worked out' and 'through the combination of the letters of this alphabet and through the analysis of words produced from them, all things can be discovered and judged'.³⁷ According to Leibniz, using the universal characteristic in order to produce metaphysical or moral reasoning would solve the problems associated with the philosophical and civil uses of words, because 'symbolic or blind thinking', when our thoughts are replaced by formal elements, would ensure that sensibilities do not intrude into our thinking, that private mental contents are exceeded by public material marks, and moreover that minds are afforded 'an Ariadne's thread' to lead them, 'without agitation, without litigation, without fear of error'.³⁸

Most importantly, though, in respect of our concern with Leibniz's account of freedom, he intended that the universal characteristic would improve people's self-consciousness about their thinking and ease their effort to attend to the world. Since, he maintained, 'the analysis of concepts thus corresponds exactly to the analysis of a character, we need merely to see the characters in order to have adequate notions brought to our mind freely and without effort'.³⁹ The universal characteristic would grease the wheels of volition and thereby improve the quality of human freedom, as the reasons that determined action would increasingly be rational ones of which individuals would have a gradually clearer awareness. Furthermore, the initial effort involved in concentrating the mind to 'follow a definite method and series in thinking' would give rise to new habits of effortless reasonableness.

³⁵ G. W. Leibniz, 'Préface à la science générale', in *Opuscles et fragments inédits de Leibniz*, ed. Louis Couturat (Paris, 1903), 156-7 ('D'autant qu'il n'y aura point d'équivocations ny amphibolies; et que tout ce qu'on y dira intelligiblement, sera dit à propos.')

³⁶ G. W. Leibniz, 'Letter to Herman Conring', in *Papers and Letters*, 187.

³⁷ G. W. Leibniz, 'Preface to a universal characteristic', in *Philosophical Essays*, 6-7.

³⁸ G. W. Leibniz, 'De logica nova condenda', in *Die Grundlagen des logischen Kalküls*, ed. F. Schupp (Hamburg, 2000), 14 ('sine agitatione mentis, sine litibus, sine formidine errandi, non minus secure procedamus, ac is, qui in labyrintho filum habet Ariadnaeum').

³⁹ G. W. Leibniz, 'Letter to Walter von Tschirnhaus', in *Papers and Letters*, 193.

Leibniz considered that a free mind was a mind trained to abide by certain public rules. The public dimension is important in other ways.⁴⁰ The right reasons for acting, he argued, are likeliest to emerge when they are publicly aired, tested and refined, while the habit of rational action is most likely to be propagated in society. Publicity is important to ‘enlighten the understanding’, for claims to truth discovered in the application of ‘the methods of judging and inventing which is that true logic that is the source of all objects of knowledge’ must be subject to rigorous examination and then inventoried.⁴¹ In addition, people must be fortified ‘in the exercise of virtues, that is, in the habit of acting according to reason’, and nothing works better to confound the ‘want of attention or application’ that so often afflicts even those with ‘enough mental energy to see what [they] ought to do’ than finding others ‘with whom one dares to be open’ and with whom one can work together for the ‘general good’.⁴²

For when each person thinks by himself, it happens that different people do the same thing, which is so much time wasted ... a thousand things can be done by two or three or by several who understand each other, which will never be done, or never be well done, if they work without communicating.⁴³

Freedom, or our sovereignty over our own deeds, is only enhanced, Leibniz maintained, through joint application of our desires and efforts to understand together with others the problems thrown up in the course of lives lived in common places and times, and a shared commitment to work towards practical solutions.

A UNIVERSAL CHARACTERISTIC FOR INTERNATIONAL SOCIETY

Leibniz did not write a great deal about state sovereignty, but, when he did, he was always keen that it should have no absolutist connotations. His account of choice as always following the

⁴⁰ See especially M. Losonsky, *Enlightenment and Action from Descartes to Kant* (New York, 2001), 180-4.

⁴¹ G. W. Leibniz, ‘Memoir for enlightened persons of good intention’, in *Political Writings*, 2nd edn., ed. Patrick Riley (Cambridge, 1988), 106.

⁴² Leibniz, ‘Memoir’, 104-5.

⁴³ Leibniz, ‘Memoir’, 109.

stipulations of reason he illustrated metaphorically in a manner that we may suppose was as much intended to revise received understandings of sovereignty as an executive capacity defined by will – a will that could not be beholden to reason if it were to count as the will of a sovereign agent – as it was designed to illuminate his argument about human freedom.

One will have it that the will is alone active and supreme, and one is wont to imagine it to be like a queen seated on her throne, whose minister of state is the understanding, while the passions are her courtiers or favourite ladies, who by their influence often prevail over the counsel of her ministers. One will have it that the understanding speaks only at this queen's order ... But it is a personification or mythology somewhat ill-conceived. If the will is to judge, or take cognizance of the reasons and inclinations which the understanding or the senses offer it, it will need another understanding in itself.⁴⁴

And Leibniz was moreover at pains to insist that federations and alliances involved no abrogation of sovereignty, because in his view they worked to increase a sovereign's control over his decisions by strengthening his comprehension of them and by buttressing his volition.⁴⁵

Reading Vattel's *Law of Nations* in light of its author's avowed adherence to Leibniz's theory of freedom helps us to understand the discussions of the internal and external sovereignty of the state presented in that work. On the former, I earlier characterised Vattel's insistence that soon-to-be subjects renounce their faculties of understanding and will to their imminent sovereign in the social compact as having the appearance of a considerably more absolutist model of sovereignty than in Pufendorf, with whom the notion of the state as a moral person originated. We are now in a position to reconsider that preliminary depiction. For if will, as a power of choice, is always determined by causes, and if such causes attain the status of reasons at the point at which they are cognised by intelligence, then it simply makes no sense, even on the basis of a 'facultative' conception of state personality, to say that sovereign willpower can be compartmentalised and segregated from the state's understanding. Will, thus conceived, is part and parcel of understanding. Vattel writes of the '*sufficient reason* for an act of the will' and uses

⁴⁴ Leibniz, *Theodicy*, 421.

⁴⁵ Leibniz, 'Caesarinus Fürstenerius', in *Political Writings*, 117-20.

that locution 'to express whatever has produced that act – whatever has determined the will on a particular occasion; whether the will has been determined by a single reason, or by many concurrent reasons' (LN II-XVII-289). Will is simply never indifferent to its causes; and if an agent be self-conscious of her own causes through reason's reflection on itself as a cause, then her freedom has been secured. To hold back reason at the conception of the state would be to make any kind of sovereign willing impossible.

Second, external sovereignty. Vattel's book is an attempt to establish some principles and rules the end of which ought to satisfy three general requirements of the freedom of states: to heighten their self-consciousness in acting; to lessen the struggle to attend to the world; and together to produce moral reasoning about the world. Vattel's problems resemble Leibniz's inasmuch as natural languages are seen to stand in the way of developing virtuous habits – and virtuous statecraft. 'If the ideas of men were always distinct and perfectly determinate', he wrote, and 'if, for the expression of those ideas, they had none but proper words, no terms but such as were clear, precise, and susceptible only of one sense – there would never be any difficulty in discovering their meaning in the words by which they intended to express it' (LN II-XVII-262). But, of course, words are not like this; and the problem is compounded in international politics, where 'men designedly throw obscurity and ambiguity into their treaties' and where 'it is impossible to foresee and point out all the particular cases that may arise', where 'conjunctures vary, and produce new kinds of cases, that cannot be brought within the terms of the treaty or the law, except by inferences drawn from the general views of the contracting parties' (LN II-XVII-262). The *Law of Nations* is a kind of universal characteristic for an international society of sovereign states, an endeavour 'to establish rules founded on reason, and authorised by the law of nature, capable of diffusing light over what is obscure, of determining what is uncertain' (LN II-XVII-262). For 'virtue is, even for sovereigns and political bodies, the most certain road to prosperity and happiness' (LN II-I-1), and states will need to legislate for themselves certain common directions in order that they can work together to better their mutual condition. They stand in need of their own Ariadne's thread to lead them ever more surely in their mutual intercourse.

To be sovereign is to be free. The power of state sovereigns to be conscious of their causes, to attend productively to the world – and to do both of these things with growing facility – turns,

Vattel maintains, on their speaking and understanding the same language. Vattel thus lays down some ‘fixed rules calculated to determine’ the interpretation of international legal agreements, which, because they ‘are founded on right reason’, are ‘approved and prescribed by the law of nature’, and so ‘every sovereign is obliged to admit and to follow them’ (LN II-XVII-268). These rules do not contradict but in fact enable sovereignty. Vattel spends a good deal of chapter XVII of Book II, ‘Of the Interpretation of Treaties’, setting out such rules of mutual understanding. He deals, for instance, with the handling of figurative expressions (such as to ‘*hatch a plot* or to *carry fire and sword into a country*’) and equivocal expressions (when words ‘signify two or more different things’ and where phrases may be ‘susceptible of more than one sense’) (LN II-XVII-278-9). His rules sound a lot like common sense, and so they should: they all follow, he thinks, from the right use of right reason; but he identifies historical sovereign offenders of each rule, so he considers that the lessons continue to need to be spelled out. We ought, Vattel says, ‘to affix such meaning to the expressions, as is most suitable to the subject or matter in question’; and on this basis Quintus Fabius Labeo is condemned for his interpretation of his treaty with Antiochus III, ‘for a sovereign who stipulates that the half of his fleet or of his vessels shall be restored to him, undoubtedly means that the other party shall restore to him vessels which he can make use of, and not the half of each vessel, sawed in two’ (LN II-XVII-280; emphasis suppressed). And yet ‘if any one of those expressions which are susceptible of different significations occurs more than once in the same piece, we cannot make it a rule to take it everywhere in the same signification’ (LN II-XVII-281; emphasis suppressed). Each expression must be interpreted on a case-by-case basis, and everything ‘which leads to an absurdity ought to be rejected’, and especially such interpretations as would lead to moral absurdity (LN II-XVII-282).

Vattel leans quite heavily in developing his own principles of common interpretation on older ones, such as rule sixty-five from canon law, that ‘in equal crimes or cases the position of the possessor is stronger’: that is, when property (or territory, for sovereigns) is disputed and there is no other legal presumption in favour of either side, then the contested property ought to be retained by its current possessor, so long as he has it in good faith (LN II-XVII-305).⁴⁶ With only a little adjustment Vattel reaches his fourth rule for dealing with ‘a collision or opposition

⁴⁶ Holland, *Moral Person*, 53-6.

between two laws, two promises, or two treaties, when [such] a case occurs' (LN II-XVII-311), which is that 'if there be a collision between two treaties made with different powers, the more ancient claims the preference' (LN II-XVII-315). Rule sixty-five had long been a tenet of casuistry, or case-based reasoning in law and ethics, and Vattel's rules very much have the character of a rubric for proceeding to conclusion in 'cases of doubt' (LN II-IX-128; II.XII.190), where what is called for is 'extensive interpretation' (LN II-XVII-290).⁴⁷ Conductors of states who together habituate themselves to observing rules such as these in their exchanges will thereby accustom themselves to making rational decisions, seeing the logic of the causes of their declarations of will, and with compounding ease. The payoffs of rule-based association will further incentivise cooperation.

Vattel's ruminations on conscience bear more responsibility than any other aspect of his work for the fairly well-consolidated view in the secondary literature that he endorsed a 'radical state-libertarianism'.⁴⁸ Vattel wrote about the 'necessary law of nations', which was 'the internal, and consciential, law' to do what needed to be done for the good of the state (LN Pref.). If it were possible for one sovereign to compel another in virtue of some contracted obligation, the latter 'would no longer enjoy the freedom of determination respecting the conduct he is to pursue in order to obey the dictates of his own conscience' (LN Prelim. 17). 'As a consequence of that liberty and independence' entailed by sovereignty, he holds, 'it exclusively belongs to each nation to form her own judgment of what her conscience prescribes to her – of what she can and cannot do – of what it is proper or improper for her to do' (LN Prelim. 16), and that may mean having to break promises. Or most succinctly: 'Let us leave the strictness of the necessary law of nations to the conscience of sovereigns' (LN III-XII-189). Again, however, we must correct our first assumptions about Vattel's intentions. 'Conscience' did not in mid-eighteenth-century Europe carry quite the same privatised imputation that it does now, when we tend to speak of 'personal' conscience based on individual value systems. The etymology of *conscientia* points to 'knowing something (in company) with someone else', a joint knowledge of it.⁴⁹ Vattel takes it

⁴⁷ See I. Hunter, 'Vattel's law of nations: Diplomatic casuistry for the Protestant nation', *Grotiana* 31 (2010), 108-40; and L. Cello, 'The legitimacy of international interventions in Vattel's *The Law of Nations*', *Global Intellectual History* 2 (2017), 105-23, at 109-11.

⁴⁸ A. Linklater, *Men and Citizens in the Theory of International Relations*, 2nd edn. (Basingstoke, 1990), 87.

⁴⁹ T. C. Potts, *Conscience in Medieval Philosophy* (Cambridge, 1980), 2

that association helps to produce self-consciousness about one's motives for acting and to improve the quality of moral action. Association does both of these things by sustaining certain rules about thinking to which associates habituate themselves and which help to invigorate volition. Conscience for Vattel was of course internal, but it had a public facet as well. It is not for nothing that even a fairly recent account of conscience defines it 'a sort of educated emotional habit'.⁵⁰ Pufendorf thought that a person acquired conscience 'from the general manner of life in his society, or from habit'.⁵¹ And commenting on the eighteenth-century grasp of the voice of conscience inspired in large part by Pufendorf,⁵² D. D. Raphael writes that it was pictured as reflecting 'what I imagine that I, with all my knowledge of the situation, would feel if I were a spectator instead of an agent', that it was understood as being 'a social product, a mirror of social feeling'.⁵³ The metaphor of the mirror is significant: Vattel subscribes to the Leibnizian ontology according to which all things are interconnected through their mutual mirroring of each other as reflections of the universe. When he writes of states as beings whose status as moral entities requires that they cannot be compelled by each other to observe agreements, he is referring explicitly to bilateral conventions. Obligations of conscience take precedence because conscience, as something perceived interiorly but shared intersubjectively, and as revealing the underlying reasons of things, enmeshes states in a more thoroughgoing set of moral relations with each other than one-to-one agreements. Appealing to conscience is not, as it may first seem, Vattel's way of investing states with an inviolate right of independence, but rather speaks to the interdependence of states and the dependence of their liberty on their productive association. As Pablo Kalmanovitz has argued in relation to Vattel's stipulations about the principles and practices of war, 'valid public reasons must control or discipline persuasive reasons' and 'multilateralism operates as a filter against spurious claims'.⁵⁴ Jennifer Pitts, on the other hand, contrasts the 'Vattelian model of sovereignty', with 'self-determination not as sovereignty, but in

⁵⁰ P. D. Ouspensky, *Conscience: The Search for Truth* (London, 1979), 54.

⁵¹ S. Pufendorf, *On the Duty of Man and Citizen according to Natural Law*, ed. J. Tully and M. Silverthorne (Cambridge, 1991), I.1.5.

⁵² H. Haara, *Pufendorf's Theory of Sociability: Passions, Habits and Social Order* (Cham, 2018), 35-41.

⁵³ D. D. Raphael, *The Impartial Spectator: Adam Smith's Moral Philosophy* (Oxford, 2007), 35-6.

⁵⁴ P. Kalmanovitz, 'Sovereignty, pluralism, and regular war: Wolff and Vattel's Enlightenment critique of just war', *Political Theory* 46 (2018), 218-241, at 231-2. See also W. Rech, *Enemies of Mankind: Vattel's Theory of Collective Security* (Leiden, 2013), 54.

terms of nondomination and relational autonomy'.⁵⁵ Relational autonomy, however, seems to me to be a good description of precisely what Vattel himself means by sovereignty.

CONCLUSION

Vattel's work is rooted in a number of traditions, not always natural bedfellows, so he tends to write about both freedom and sovereignty in liberal terms, where non-interference is constitutive, and in republican terms, where independence is central. He draws, as we have seen, some of his thinking on freedom and sovereignty from Hobbes, the great proto-liberal; but some of his reflection on the same topics also rests, as we have also observed, on Hobbes's critic, Pufendorf. The Leibnizian tradition is strongest in its influence on Vattel, however. According to that, self-government, whether of the individual or the sovereign state, is about overcoming the irresolution of the will in order to enter into relationships which both enlighten and discipline reason through the careful mutual manipulation of some symbol system: this is a theory of a kind of positive liberty, in Berlin's sense, as opposed to two different pictures of negative liberty. It seems to me that Vattel anticipates the likes of Tocqueville's associative liberalism or even Cass R. Sunstein's account of freedom as navigability.⁵⁶ It is a theory of sovereignty that is so much more than what is usually thought to be.

VATTEL'S TEXTS

DSL: *Défense du système leibnitien contra les objections et les imputations de M. de Crousaz* (Leiden, 1741).

FNL: 'Essay on the Foundation of Natural Law and on the First Principle of the Obligation Men Find Themselves Under to Observe Laws', in *The Law of Nations*, ed. B. Kapossy and R. Whatmore (Indianapolis, 2008).

⁵⁵ J. Pitts, 'Intervention and sovereign equality: Legacies of Vattel', in S. Recchia and J. M. Welsh (ed.), *Just and Unjust Military Intervention: European Thinkers from Vitoria to Mill* (Cambridge, 2013), 132-53, at 151-3.

⁵⁶ C. R. Sunstein, *On Freedom* (Princeton, 2019).

GUIDE TO FURTHER READING

Beaulac, S., *Power of Language in the Making of International Law: The Word 'Sovereignty' in Bodin and Vattel and the Myth of Westphalia* (Leiden, 2004), chap. 7.

Holland, B., *The Moral Person of the State: Pufendorf, Sovereignty and Composite Politics* (Cambridge, 2017), chap. 3.

Hunter, I., 'Vattel's law of nations: Diplomatic casuistry for the Protestant nation', *Grotiana* 31 (2010), 108-140.