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In 1648, a new world order emerged. The Treaty of Westphalia, putting an end to decades of war in continental Europe, set out the basics of the modern idea of the co-equal sovereign nation-state, and laid the foundations for three and a half centuries of international politics. Academics have waxed lyrical about it, students have been bored to tears learning about it, statesmen and politicians have cleaved to it as the cornerstone of the right to see to the affairs of their disparate nations without anyone else arbitrarily telling them what to do.

Sixty-four years ago, the UN charter reiterated the idea of statehood. It toughened up and helped to consolidate what rules there were for the international community, and instigated mechanisms to govern the conduct of nation-states and to help them resolve their differences peacefully. Though this was promulgated with the aim of preventing large-scale mechanised conflicts between nation-states, it included provisions to help nation-states deal with infractions against the international order and to legitimate the use of force (whether military force, political force or economic force) where the international community deemed it to be necessary.

Yet, in 2009, we have a major conflict in Afghanistan, Pakistan teetering on the brink of anarchy, Sri Lanka at the tail end of a long and bloody internal conflict, and the new US President Barak Obama visiting the Middle East to try, for the umpteenth time in the last half-century, to find some way merely to start to resolve a long-standing inter-communal struggle for power and land. Former President George W. Bush, as onerous an individual as some may consider him to be, seems to have hit the nail on the head when he referred to times we live in as "The War on Terror" – for none of these conflicts are traditional, symmetrical conflicts between nation-states.

The Treaty of Westphalia did its level best to relegate what non-state actors there were at the time to third-order international players, and to ensure that any state with external non-stated institutions (ie. The Vatican and the various international Churches) could not interfere in the domestic politics of a sovereign nation-state. If anyone was going to go to war, it would be states against states, period. Similarly, the UN system does not have the formal mechanisms in place to adequately deal with the large-scale use of force by political actors who owe no loyalty to specific nation-states. Witness the Taleban in Afghanistan, and US attacks against targets in Pakistan associated with them – what mechanisms there are mean that a state which is attacked by non-state political actors has no option but to attack bases of operations on the sovereign soil of another state, no matter what the involvement of the 'host state' might be.

So, what we are living in is an era that the system of nation-states is poorly equipped to handle, and there are no signs that the road leads anywhere else but downhill from here. The reach of terrorist groups also extends deep into the underworld of international organised crime – drugs, people trafficking, racketeering, and ultimately the international black market in illegal weapons,

from assault rifles and grenades to the nightmare scenario of errant thermonuclear or biological weapons. There's also the problem of humanitarian crises, when the government of a state so greatly harms its people that we make use of pejorative terms like "massacre" or "genocide".

In both cases, the era of mass communications and political globalisation means that these events are no longer the problem of one state alone, or even predominantly one state, and public pressure for a government to intervene in the affairs of another sovereign nation-state can be so overwhelming that there is no other politically-viable (or strategically wise) choice.

Rules on international crime likewise remain a problem, rooted in the era of confrontations between nation-states. The USA will not participate in the International Criminal Court because it fears that its people will be subject to arrest and imprisonment, possibly punitive punishment, for following the directives of others, or issuing directives which harm others in the international community despite a pressing domestic political or military need. Russia will not extradite a known criminal suspect to Britain due to the high level of politicisation of the case by both sides. In both nation-states, domestic judicial processes are preferred, no matter what the diplomatic ramifications might be. The successes of The Hague have been few, though high-profile non-partisan prosecutions against war crimes suspects from the former Yugoslavia point to a better way of doing things, as does widespread international co-operation in seizing drug shipments.

What to do? I would argue that we need nothing less than a new Treaty of Westphalia, a new international treaty which sets out clearly the what nation-states consider their common rights and obligations to be in this changing world. Realistically, there is no way to attain some utopian ideal of international unity, so this Treaty would need to work within the practicalities of modern geopolitics.

There are four situations that a new Treaty of Westphalia needs to take account of:

- 1) interventions by states against powerful non-state threats to the security of states and peoples, where the state within which the threat is located is unable or unwilling to act in an effective or timely manner
- 2) lines of jurisdiction and standards of punishment for politicised and well-publicised international crimes which ensure that those suspected in such crimes are subject to independent and politically-neutral due process of law
- 3) interventions by states to prevent or put a stop to the actions of states or powerful non-state actors within a stated territory which are in gross breach of minimum fundamental international norms, such the prohibition of extra-judicial killing and the prohibition of rape
- 4) protection and diplomatic status of aid workers and individuals under the care of aid workers in dangerous areas, including those hired locally

To illustrate one example of what might be, consider the plot of a nameless American movie. Those who recognise the plot, and the changes made to it, will no-doubt realise how much of a

mess the whole situation was without the changes involved (or, indeed, the actions of the ubiquitous single Hollywood hero) :

A rogue General uses mercenaries to steal a shipment of nuclear warheads, later detonating one in a sparsely-populated area to hide his crime temporarily. Thanks to a lucky break, a foreign intelligence organisation puts the pieces together much more quickly than the police and intelligence apparatus of the country where this quickly-publicised and widely-condemned crime takes place. The foreign government, which maintains military facilities nearby under a treaty with a neighbouring state, becomes aware that the remaining stolen warheads are destined for the international arms black market, and is in position to launch an operation into the territory of the state where the crime occurred, thus intercepting the warheads before they can be sold.

Under the provisions of the proposed new Treaty, the foreign government is able to make a fast-track request for military access to foreign airspace, which is immediately cleared. A special forces squad intercepts the weapons shipment without any hostile action by local forces, taking into custody a number of suspects; the rogue General is killed in the firefight. All the weapons are retrieved; a terrorist courier amongst the suspects is unable to escape with a warhead which another suspect had begun to dismantle for transport.

Later, under the provisions of the new Treaty, the weapons and suspects (and cadavers) are handed over to local forces, along with copies of on-site interrogation records. The foreign special forces team immediately vacates the area. Internationally-verified domestic prosecution procedures are then initiated against the suspects, who all receive lengthy domestic jail sentences, despite highly-charged street demonstrations calling for summary executions. Interrogation records revealing the terrorist and black market contacts of the suspects are later handed over to a number of foreign governments.

Here we see more than one quid pro quo. To ensure the smooth running of the kind of operation that is necessary to sort this mess out quickly and effectively, the states involved promise to recognise the international dimension of what is going on, but also to recognise that state sovereignty is not something to be taken lightly or circumvented when convenient. Both nation-states have a role to play, both benefit, and both see their strategic interests met. There's no need to resort to 'carrot and stick' diplomacy, as the incentives and mechanisms for extensive co-operation are already in place. What is more, these are mechanisms that everyone can respect and abide by, because everyone has had the chance to contribute to setting them up.

A new Treaty of Westphalia is arguably a strategic necessity, not least for a USA which harbours lingering doubts about how the UN system and all its affiliated institutions deal with statehood and sovereignty. And, in the best of all possible worlds, perhaps it might contribute to resolving some of the thornier problems of international politics, not least the Middle East conflict that continues to so vex world leaders such as Barak Obama and Binyamin Netanyahu.