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The Peace of Westphalia and it Affects on International Relations, Diplomacy and Foreign Policy

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The Peace of Westphalia, signed in 1648, ended the Thirty and Eighty Years Wars and created the framework for modern international relations. The concepts of state sovereignty, mediation between nations, and diplomacy all find their origins in the text of this treaty written more than three hundred and fifty years ago. This peace, which was actually made up of two different peace conferences, was the first attempt at modern international diplomacy and formally solidified the beginnings of religious toleration from a political perspective. It was one of the first attempts at codifying an international set of laws and essentially provided the basis for international communities like the European Union and the United Nations and even laid the groundwork for an early American nation. The Westphalian system still remains the model for international politics around the world and the concept of state sovereignty, solidified by the peace, is still the basis for modern international treaties and conventions.

In order to understand the significance of the Peace of Westphalia, it is necessary to look briefly at the wars which sparked the gathering of the congress. The 30 Years War (1618-1648) was a conflict between feuding Catholic and Protestant estates within the Holy Roman Empire which gradually evolved to become a conflict involving most of Europe.[1] The war was also, and more importantly as far as the lasting effects on international affairs is concerned, about the right of princes in the Empire to sovereign rule.[2] Throughout the conflict, the Catholic Hapsburgs fought Protestant princes of Germany who were supported by France, Sweden, and Denmark.[3] This summation of a thirty-year long conflict obviously is an oversimplification of the complex circumstances which sparked and sustained this war but, for the purposes of explaining the treaty which ensued, is sufficient. The Peace of Westphalia also ended the 80 Years War which raged

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[1] Bobbitt, Philip. *The Shield of Achilles: War, Peace, and the Course of History.* 1 ed. New York: Anchor Books, 2003.

[2] Asch, Ronald G.. *The Thirty Years War: The Holy Roman Empire and Europe 1618-1648.* 1 ed. New York: St. Martain's Press, 1997.

[3] Bobbitt, Philip. *The Shield of Achilles: War, Peace, and the Course of History.* 1 ed. New York: Anchor Books, 2003.

from 1568 until 1648 and was fought over the Netherlands' desire for independence from Spain.[4] After the Twelve Year Truce, a ceasefire agreement between both sides which proved to be short-lived, fighting resumed in 1621 and from then on coincided with the 30 Years War until both wars ended in 1648.[5] Despite this, the prevailing conflict which the peace addressed in greatest detail was the 30 Years War, a war which ravished the Holy Roman Empire, displaced thousands of Europeans, and killed approximately 3-4 million Germans, a significant portion of the population.[6]

The negotiations known as the Congress of Westphalia began in 1642 and lasted another 4 years until the end of the 30 Years War in 1648.[7] Diplomatic representatives from 96 different entities were present at the negotiations which met in two cities within 30 miles of each other-Osnabrück and Münster.[8] The Catholic estates involved in the conflict including Spain, France, the Dutch, the Holy Roman Empire, and a papal mediator met in Münster while the Protestant estates met under the leadership of Sweden and an imperial representative at Osnabrück.[9] During the entire duration of the Congress at Münster and Osnabrück, the war was raging only a "three day's hard ride" from the peace talks.[10] Because a conference on such a large scale had never taken place prior to the 17th century, the "diplomats" who attended the peace talks were "stumbling over conflicting claims of precedent" and were worried that even participating in the negotiations was a threat to their nation's future power.[11] Additionally, while the negotiations commenced in 1642 and the Congress convened on December 4, 1644, some scholars argue that true negotiations did not begin until November of 1645 when Count Trauttmannsdorff, the President of the Imperial Privy Council (of the Holy Roman Empire) arrived in Münster.[12] Finally, by 1648, conditions for nearly every nation involved in the conflict had worsened, the Empire had lost about a third of its population, and leaders began to compromise.[13] Soon after, a compromise was reached and, on October 24, 1648, when the Treaty of Münster was signed, the Peace of Westphalia ended the 30 Years War.[14]

Before an understanding of the peace of Westphalia can be achieved, an analysis of the goals of the treaty must be completed. When the representatives from all involved nations and states met at Münster and Osnabrück, they had certain goals in mind. National representatives

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[4] Britannica, Encyclopedia. "Peace of Westphalia." http://www.britannica.com/EBchecked/topic/641170/Peace-of-Westphalia (accessed April 22, 2009).

[5] Ibid.

[6] McLeod, Toby. ""Thirty Years War" The Oxford Companion to Military History.." (accessed April 22, 2009).

[7] Nathan, James A. *Soldiers, Statecraft, and history: Coercive Diplomacy and International Order.* 1 ed. Westport CT: Praeger Publishers, 2002.

[8] Ibid

[9] Bobbitt, Philip. *The Shield of Achilles: War, Peace, and the Course of History.* 1 ed. New York: Anchor Books, 2003.

[10] Nathan, James A. *Soldiers, Statecraft, and history: Coercive Diplomacy and International Order.* 1 ed. Westport CT: Praeger Publishers, 2002.

[11] Ibid.

[12] Asch, Ronald G.. *The Thirty Years War: The Holy Roman Empire and Europe 1618-1648.* 1 ed. New York: St. Martain's Press, 1997.

[13] Nathan, James A. *Soldiers, Statecraft, and history: Coercive Diplomacy and International Order.* 1 ed. Westport CT: Praeger Publishers, 2002.

[14] Ibid

Count Maximilian Von Trautmansdorff of the Empire, Johan Oxenstienna and Johan Adler Salvius of Sweden, and Comte d'Avaux and Marquis de Sable of France all had specific instructions by the leaders of their own respective nations not to engage in any sort of compromise too quickly.[15] No nation wanted to be seen as weak and none wanted to be held responsible for the more than three decade long destructive conflict. By 1645 there were strong motives for seeking some sort of peace agreement in a war which cost millions of lives including, by some accounts, one third of the entire German population.[16] The goals of the peace conference for each nation can be summed up as follows: the French wanted control of strategic military fortresses including of Metz, Toul, Verdun, Breisach, and Alsace among other areas in addition to four cities on the Rhine known as the "forest cities"; the Empire wanted a united kingdom under the leadership of the Emperor; the princes of the provinces of the Empire wanted sovereignty over their own kingdoms; the Dutch wanted independence from Spain, and Sweden wanted territorial gains of their own.[17] The primary compromises of the represented estates at the congress were written down in the two treaties at Münster and Osnabrück and are summed up by David Maland as follows: the separate states of the Empire were recognized as sovereign; attendance at the established state church was not mandatory; the Peace of Augsburg was affirmed and Calvinism was accepted as a permissible religion; matters of religion were to be settled not by a majority vote but rather by a compromise agreed to by the conflicting parties; the United Provinces were granted independence from Spain and the Empire; Spain was forced to "give away all points to the Dutch", and other land boundaries were shifted.[18] The additional long term effects of the Peace of Westphalia, though likely not immediately foreseen by the writers of the treaties, were far more influential than the short term land and power shifts.

The long term effects of the compromise which were achieved under the Peace of Westphalia were significant and the peace itself was a monumental, modern, and for its time, revolutionary achievement. In his essay on the Peace of Westphalia, Wyndham A. Bewes writes, "no questions that had ever before received a diplomatic settlement had been of such far-reaching importance, or had been settled with the concurrence of so many powers."[19] This notion of an international effort to solve a conflict using diplomatic methods where all sides participated and agreed to compromise, rather than a dominant nation simply dictating policy to a losing nation, was very new in the 17th century.[20] Bewes concludes, "Never [before the congress] had there been such a numerous and brilliant assembly of Ministers and Statesmen of so many different nations and never had so important and complicated political interests been discussed with solemn sufficiency."[21]

The peace dealt with many topics of high importance to the European powers at the time but, from a modern international relations standpoint, three of the issues which were resolved are

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[15] Bobbitt, Philip. *The Shield of Achilles: War, Peace, and the Course of History.* 1 ed. New York: Anchor Books, 2003.
[16] Ibid
[17] Ibid
[18] Maland, David. *Europe at War 1600-1650.* 1 ed. Totowa NJ: Rowman and Littlefield, 1980.
[19] Bewes, Wyndham A.. "Gathered Notes on the Peace of Westphalia." *Transactions of the Grotius Society* 19, no. (1933): 61-73.
[20] Ibid
[21] Ibid.

of particular significance. The first of those issues is the religious freedom which was solidified by the treaties at Münster and Osnabrück. The Peace of Westphalia "confirmed the Peace of Augsburg which had granted Lutherans religious tolerance in the Empire" that had been taken away by Emperor Ferdinand II in his Edict of Restitution of 1629 (the Peace also granted the same tolerance to Calvinists).[22] For religious issues, the peace was "essentially a broadening and a clarification of the Peace at Augsburg" which, both then and in modern society, is of great significance.[23] Before the Peace, states viewed all other foreign nations and policies in terms of good and evil: their own view as good and anything which opposed it as evil.[24] James Nathan sums it up well: "If one side fought with God, it followed that the other had sided with the devil. For the hundred years that preceded the treaties of Westphalia, only truces were permissible."[25] Because of this, the Treaties of Münster and Osnabrück which dealt with rivaling nations were fairly revolutionary. Before any compromises could be made, the dozens of parties present at the congress had to agree on a sort of procedure for the talks. Scholars agree that "it was necessary to reach preliminary agreements on procedure before the actual work of making peace could begin".[26] Luckily, by late in the war, national leaders were quickly growing tired of the conflict and began ordering their representatives at the conferences to make some concessions to put an end to the damages which had been incurred by their states.[27]

While most today would view the diffusion of religious influence in national affairs as a positive aspect of the peace treaty, the Catholic Church and papacy at the time certainly did not. Pope Innocent X, the leader of the Catholic church at the time of the negotiations, denounced the Peace of Westphalia in a papal bull because it undermined his "pan-European political power"[28] Similarly, most Catholics at the time saw the Peace of Augsburg (upon which many of the religious tenets of Westphalia were based) as only a "temporary, emergency measure" which should not become permanent law.[29] What is also significant here is that the writers of the treaties anticipated these objections from both the papacy and the Catholic population throughout Europe. [30] The treaties required any state which signed it to ignore any objection made on the basis of religious supremacy from both Catholic and Protestant leaders.[31] Once the Peace of Westphalia was ratified by each estate's representative, "the role of the Christian community of

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[22] Britannica, Encyclopedia. "Peace of Westphalia." http://www.britannica.com/EBchecked/topic/641170/Peace-of-Westphalia (accessed April 22, 2009).

[23] Bobbitt, Philip. *The Shield of Achilles: War, Peace, and the Course of History.* 1 ed. New York: Anchor Books, 2003.

[24] Nathan, James A. *Soldiers, Statecraft, and history: Coercive Diplomacy and International Order.* 1 ed. Westport CT: Praeger Publishers, 2002.

[25] Ibid

[26] Colegrove, Kenneth. "Diplomatic Procedure Preliminary to the Congress of Westphalia." *The American Journal of International Law* 13, no. 3 (1919): 450-482.

[27] Bobbitt, Philip. *The Shield of Achilles: War, Peace, and the Course of History.* 1 ed. New York: Anchor Books, 2003.

[28] Ibid.

[29] Parker, Geoffrey. *The Thirty Years War.* 2 ed. New York: Routledge & Kegan Paul Inc., 1987.

[30] Bobbitt, Philip. *The Shield of Achilles: War, Peace, and the Course of History.* 1 ed. New York: Anchor Books, 2003.

[31] Ibid

states was replaced by the rule of state consent".[32] This new, revolutionary treaty completely changed the relations between church and state and established a new precedent whereby states would become sovereign entities, immune (generally speaking) from the political pressure of any one church.[33] Conversely, since the Peace's adoption, Catholics, Lutherans, and Calvinists at least could practice their faith without any serious intrusion from the emperor.[34]

The second essential issue with which the Peace of Westphalia dealt was the nature of war and its intended uses. Before 1648, war was the accepted means of instating policy changes when one country found fault with another.[35] It was the "legitimate form of solving conflicts" before the Peace but, after the treaties were agreed upon, "No state was allowed to be destroyed...and compensation was to be awarded to those states that gave up strategically advantageous possessions."[36] Since the mindset of nations thinking in strict terms of "good" and "evil" was beginning to disappear in the 17th century, diplomacy and negotiation could be used as an alternative to war.[37] While this is not to suggest that there was no form of negotiation before the end of the 30 Years War, it seems that official recognition of the diplomats of countries and official offers to compromise could not be utilized in terms of a nation's foreign policy prior to the peace.

The third and possibly most significant and lasting outcome of the Peace of 1648 is the idea of state sovereignty. Before and during the 30 Years War, German provinces were under the rule of the Holy Roman Emperor who controlled the actions of provincial princes.[38] What the Peace of Westphalia effectively established was "territorial superiority in all matters ecclesiastical as well as political" of princes in the Empire.[39] The Peace had given them many rights which were previously held only by the Emperor: "they could ratify peace treaties, they could levy taxes....they could declare war" and possibly most significantly, "war could not be declared by the empire without their consent."[40] This meant that the princes' power was greatly increased while the Holy Roman Emperor saw a drastic reduction in the scope of his.[41] After the peace settlements, power in the Empire had become much more decentralized- a quality which would prove to be very important in diplomatic negotiations in the centuries following the war.

The Peace of Westphalia is seen by many scholars in both history and in the field of international relations to be the basis for much of modern international law and professional diplomacy. [42] Each of the three primary elements of the treaties: wider formal religious freedom,

[32] Ibid

[33] Parker, Geoffrey. *The Thirty Years War*. 2 ed. New York: Routledge & Kegan Paul Inc., 1987.

[34] Ibid

[35] Bobbitt, Philip. *The Shield of Achilles: War, Peace, and the Course of History*. 1 ed. New York: Anchor Books, 2003.

[36] Nathan, James A. *Soldiers, Statecraft, and history: Coercive Diplomacy and International Order*. 1 ed. Westport CT: Praeger Publishers, 2002.

[37] Ibid.

[38] Ibid

[39] Ibid

[40] Ibid

[41] Ibid

[42] Ibid

the introduction of the diplomatic profession, and the recognition of sovereign states contributed to this long-lasting impact.[43] In the 17th century and throughout the 30 Years War, the idea of supreme central authority of say, the Holy Roman emperor or the papacy, was starting to be questioned though there had been very little effective international diplomacy which tried to alter that reality.[44] Scholars of history, law, and politics were beginning to seek out a more effective system of relations for states which relied less on a supreme central authority and instead diffused more power to each sovereign state.[45] The 17th century historian Hugo Grotius who died shortly before the settlements at Westphalia believed that "kingly states could only achieve complete legitimacy as part of a society of sovereigns to whom they owed certain duties" and "denied that there had to be a supreme sovereign for there to be a law of the society of kingly states or sovereigns."[46] This concept of state sovereignty is a very long lasting one and is still in practice in many areas of foreign policy today including in the U.N., the European Union, and even the United States of America.

These three concepts which were established at Westphalia, however, did not come about overnight; they instead seem to be the work of the evolution of political ideas over the 16th and 17th centuries. Kenneth Colegrove, a former U.S. diplomat and member of the executive council of the American Society for International Law, writes that before the Congress of Westphalia, "International law was in its infancy and the vocabulary of diplomacy had not yet assumed the accuracy and precision which was to characterize it in a later period."[47] He argues that diplomats, if one can call them such during the 17th century, did not even have words like "mediation" in their vocabulary which made the negotiations at the peace congress extremely tedious, perhaps explaining why they took several years.[48] The process which occurred both at the congress and during the years leading up to it was an important piece in the evolution of the diplomatic process and remained in use, unchanged for more than two centuries.

While the concrete achievements which came from the Peace of Westphalia, namely state sovereignty and religious freedom, were obviously significant, the diplomatic process and profession which emerged from the congress was arguably just as important. Auburn University international relations professor James Nathan argues:

> Before the Westphalia settlement, there was no recognizable diplomatic profession. Spies, irregular envoys, and heralds citing scripture or handing out ringing declamations were the usual route that princes chose to alert one another to the start of war. After Westphalia, the diplomatic craft was practiced by a kind of well-born guild, with

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[43] Gross, Leo. "The Peace of Westphalia 1648-1948." *The American Journal of International Law* 42, no. 1 (1948): 20-41.

[44] Bobbitt, Philip. *The Shield of Achilles: War, Peace, and the Course of History.* 1 ed. New York: Anchor Books, 2003.

[45] Ibid

[46] Ibid

[47] Colegrove, Kenneth. "Diplomatic Procedure Preliminary to the Congress of Westphalia." *The American Journal of International Law* 13, no. 3 (1919): 450-482.

[48] Ibid

members who were adept at melding reason, precedent, and law with quiet allusion to the implication of armed compunction.[49]

Nathan also believes that since the settlement at Westphalia, diplomats and those in combat sought "victory less and the achievement of favorable peace more."[50] This shift in thinking by both diplomats and combatants signaled a way of more modern thinking which paved the way for modern inter-state politics. This was a change from previous medieval political thinking which centered around a system based on obedience to a central hierarchy to a more modern system wherein leaders recognized the sovereignty of each state and had the ability to utilize diplomatic recourses before resorting to war.[51] To further limit the possibility of war, power was dispersed among various states in order to ensure that no one state would have the military might to conquer others without the help of neighboring nations.[52] This is obviously not to say that the Peace prevented all wars but it did set a precedent and provide a platform for discussion between nations in one of the earliest attempts to resolve international conflicts before the outbreak of war. The diplomatic form which emerged from the Congress of Westphalia provided the model upon which international negotiations progressed down through the First World War until the Treaty of Versailles in 1919.[53]

Even after international relations were renegotiated after WWI, scholars argue that the effects of the Peace of Westphalia and the framework which it provided can be seen in many modern international communities including the United Nations, formerly the League of Nations, the European Union, and even to an extent, the United States of America.[54] The charter of the United Nations written in 1945 has some of the very same provisions which were included in the Peace of Westphalia written some 300 years earlier.[55] A scholar of international law at Tufts University, Leo Gross writes that the provisions of the Peace of Westphalia "constitute, in a sense, an early precedent for Articles 10, 12, and 16, or the Covenant of the League of Nations" and that the Charter of the United Nations "would seem to have left essentially unchanged the framework of the state system and of international law resulting from the Peace of Westphalia."[56] Just like the charters of the League of Nations and the United Nations, Westphalia included provisions to discourage war and promote civility between sovereign states.[57] Specifically, the treaty signed at Münster specifically outlawed any immediate recourse to arms. Section CXXIV of the treaty states:

It shall not be permitted to any State of the Empire to pursue his Right by Force and Arms; but if any difference has happen'd or happens for the future, every one shall try the

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[49] Nathan, James A. *Soldiers, Statecraft, and history: Coercive Diplomacy and International Order.* 1 ed. Westport CT: Praeger Publishers, 2002.
[50] Ibid.
[51] Ibid
[52] Ibid
[53] Ibid
[54] Gross, Leo. "The Peace of Westphalia 1648-1948." *The American Journal of International Law* 42, no. 1 (1948): 20-41.
[55] Ibid
[56] Ibid
[57] Nathan, James A. *Soldiers, Statecraft, and history: Coercive Diplomacy and International Order.* 1 ed. Westport CT: Praeger Publishers, 2002.

means of ordinary Justice, and the Contravener shall be regarded as an Infringer of the Peace. That which has been determin'd by Sentence of the Judge, shall be put in execution, without distinction of Condition, as the Laws of the Empire enjoin touching the execution of Arrests and Sentences. [58]

This excerpt from the treaty written in the 17th century sounds very similar to the League's charter which bans any recourse to arms of a nation in search of territory expansion.[59]

In addition to laying the foundations of international relations charters like that of the League of Nations, some argue that Westphalia was also an early model for the birth of America and the modern relations of European nations.[60] Phillip Bobbitt, the author of *The Shield of Achilles: War, Peace, and the Course of History* compares Westphalia to Philadelphia which was the birthplace of the American colonies and says that both Westphalia and Philadelphia were "the birthplace of a new constitution for a small society of states.[61] This reference to the American Constitution shows both the longevity of the Peace of Westphalia and its far reaching effects, not just on Europe, but also on North America. Within Europe the peace provided the model for the European Union in which each state or nation keeps its own sovereignty but is united under the larger authority of the Union whose leadership is comprised of its member states. In much the same way, the Westphalian system provided this sort of arrangement for the sovereign principalities of Germany while keeping some form of cohesiveness amongst the Holy Roman Empire.[62]

Scholars would agree that the Peace of Westphalia was, for its time, a revolutionary and monumental achievement; it developed the framework for international diplomacy, a construct which simply did not exist prior to the 17th century. This peace was extremely influential down through the Treaty of Versailles and the Westphalian tradition can still be seen in modern international politics. Compromises reached by the congress in 1648 on the issues of individual state sovereignty, religious tolerance, and diplomatic solutions to international warfare were the precedents of common and international law until the First World War and, arguably, still form the core of foreign policy. The Westphalian tradition can be seen in various modern international forums including the United Nations and is one of history's leading examples of how one conflict can impact the affairs of dozens of independent nations for centuries.

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[58] Toynbee, Arnold. *Major Peace Treaties of Modern History 1648-1967.* 1 ed. 1, Fred L. Israel. New York: Chelsea House Publishers, 1967.
[59] Nathan, James A. *Soldiers, Statecraft, and history: Coercive Diplomacy and International Order.* 1 ed. Westport CT: Praeger Publishers, 2002.
[60] Bobbitt, Philip. *The Shield of Achilles: War, Peace, and the Course of History.* 1 ed. New York: Anchor Books, 2003.
[61] Ibid.
[62] Ibid

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