Section Thématique 60 Les usages de l'histoire des idées politiques en relations internationales

Félix Blanc, Centre Raymond Aron (EHESS), felix.blanc@ehess.fr

Evgeny Roshchin, Université de Jyväskylä (Finlande), evgeny.roshchin@jyu.fi

Paper title

Trapped in international language:
Debates on arbitration in Vienna and The Hague

Part I

Theoretical framework

In this paper we shall try to challenge a prevailing IR narrative of anarchy (Waltz 1979), which sometimes is turned into narratives of polyarchy (Holsti 1992) and great power management (Bull 1995), by way of showing how independent sovereign states constrained their behaviour and limited policy options in the process of defining themselves as moral agents and members of larger civilizational or community projects. We shall examine how states constituted themselves as such actors conceptually and embedded a corresponding vocabulary into conceptual architecture of international politics. More specifically, we shall analyse the constitution of states and their association through their attempts to institute first modern arbitration schemes which may be seen as contravening the idea of absolute state sovereignty. We would thus be interested in ways that states rhetorically moulded concepts through which the world of interstate relations can be seen rendering some phenomena recognized, commended, denounced, yet others merely ignored as irrelevant. In this we share interest with a broadly understood constructivist theory (Onuf 1989; Wendt 1999), but place a greater emphasis on language of self-portrayal.

Our basic argument is that international arbitration was predicated on moral justifications. The choice to advocate it on moral grounds was in itself political, i.e. a matter of political rhetorical battle. As a result of modern debates on arbitration, states were constructed as moral agents/endowed with moral duties to a larger collectivity. This offers at least two broader theoretical challenges: one is a challenge to a realist narrative; the other is a challenge of opening up the space for possible alternatives that the conceptual link of arbitration and moral duty happened to sideline.

Popularity of the anarchy metaphor in the field of the international is due to the lack of

central authority that would command law and ensure compliance. Yet there are norms, patterns of behaviour, and customs that states find worth adhering to and legitimate. Legitimacy is thus central to understanding a patterned behaviour of states (Corten 1996). In the absence of central authority that has a monopoly of power in international politics legitimacy is perhaps more important and 'visible' than within the state that possesses a monopoly on violence and, thus, can ensure compliance (see Clark 2005). We argue that one of the key means to make something legitimate or question its status as such is diplomatic rhetoric that seeks to persuade relevant international audiences and frame certain practices and institutions in a desirable light. It is by observing that something was admitted to diplomatic vocabulary and commonly used by a variety of actors across the field one may claim the range of reference of a particular concept or doctrine became legitimate.

In history of international relations one can observe very discrepant modes of diplomatic rhetoric; for obviously it is one thing to try to win approbation of an absolute monarch, it is another to deal with representatives of democratically elected governments. Occasions for public diplomatic oratory would also be very different in such contexts. The age of arcane diplomacy, done in secret, was seriously challenged by an increased democratic pressure at the late 18th and the 19th centuries.. In this period public opinion, particularly in representative democracies, exerted pressure on the government in matters of war and peace (Taylor 1957). Alongside secret negotiations, governments were forced to explain their action publicly, hence the trend in diplomatic rhetoric in which policy choices were justified by reference to morality, values, and norms. This is when the role of diplomatic rhetoric becomes pivotal in securing public support but also in representing the sovereign actor and the nature of its political engagements.

One sign of a grand political shift from a limited European concert to a more inclusive international community striving for its own political organization would be a decline in the use of a corresponding set of values and norms, and in an overall legitimacy of great power management. Certainly, it would be naïve to assume that collective political entities, such as states, could simply be pronounced as moral subjects (on the moral purpose of state see Reus-Smit 2009) and would readily enact this status thereafter. Instead, states had to be *constituted* as agents in the first place and as moral agents in the second. Such constitution is not a matter of mere declaration, even if performative speech acts of this sort would also be part and parcel of the process. It often implicates the constitution of a moral collective agent though a series illocutionary and performative acts (here we draw on Austin 1975) about mundane and even tangible subjects in localized contexts. Thus, it was not only an experience of the Great War, however profound and dramatic, that allowed to effectively denounce war as immoral and thereby cast states that declare peace as their ultimate priority in a moral light.

Such a process was predicated on a series of events, discussions, and attempts aimed at regulating great power relations and preventing wars in the late 19th and early 20th centuries. Particularly, we refer to the process that introduced and legitimized international arbitration (ranging from bilateral and contingent arbitrations to the collective institutions, such as the Permanent Court of Arbitration) as a means to prevent war and inaugurate a morally commendable way of peace. All attempts to make arbitration a robust international institution required serious justification. We shall argue that rhetoric seeking to persuade a counterpart, including a tactic of presenting one's case to a wider concerned audience in a morally

commendable light, thereby leaving less room for a counterpart to reject a proposal (for a range of rhetorical strategies available to an innovating ideologist, see Skinner 1996; Skinner 2002), was central to the process in which ideas of European Concert and great power management lost legitimacy while states were gradually constituted as agents in the domain of morality and a more inclusive international community. For this reason we shall examine the types and nature of such justificatory arguments and the kinds of political associations they tended to favour and those they had to discard.

Previous scholarship has already drawn attention to rhetoric in international politics and diplomacy (see Schimmelfennig 2001). Also attempts were made to focus on rhetoric *per se* and build models that would allow to analyse "language constraints" on the basis of coercion (see Krebs and Jackson 2007). In this paper we limit our focus only to the observable linguistic data, i.e. the things that actors (e.g. diplomats, arbitration advocates, etc.) wrote or said on specific occasions. All our conclusions regarding conceptual change or continuity (as a manifestation of something that had been constituted) also follow from observable trends in diplomatic rhetoric, rather than from inferences that someone's will was ostensibly constrained or in some other way bent through the power of rhetoric (in this sense our approach departs from Krebs and Jackson 2007). We hypothesize that state action can be constrained not only by material capabilities, but also through institutions or institutional constraints (on deliberation in collective bodies, (see Jon Elster 1995); on state international behaviour, see also (Krasner 1999), and concepts that describe these institutions and principles of state membership therein.

We argue that battles over concepts frame available space for diplomatic action and working of the institutions by way of defining their constitutional statutes and outlining grounds for their legitimacy. Hence our focus is on the ways in which *agreements* are reached on treaties or conventions. Most of the time, international agreements are reached after long negotiations in plenary and committee sessions at international conferences. Battles over language issues translate into final drafts, which are thus contingent upon preceding political debates. How does such a draft emerge? What strategies are used to persuade recalcitrant members? Does rhetoric play any role in diplomatic framing of agreements made to become public at some point? This is a range of questions that needs to be addressed in rhetorical analysis of international conventions.

In this paper we analyse the rhetoric of inter-state congresses that led to adoption of important final acts, i.e. the Congress of Vienna (1815) and The Hague conferences (1899, 1907). Inter-state congresses are sites where diplomats create, modify and learn concepts and languages that become common and even obligatory in cases when they translate into international law. The two chosen congresses played key roles in inaugurating and institutionalizing international arbitration, i.e. the idea and institution central to understanding international society and limits of state sovereignty. Both congresses offered a number of arguments *pro et contra* the institution that illuminate political struggles behind its highly normative nature. At the same time, both events were hallmarks in the transforming international system: one marked the rise of the European "Concert", the other was a first indication of a more inclusive international organization. While the Vienna Congress gave birth to the idea of federalized great powers governing the world through recurrent conferences (Mazower 2012, 4). The Hague emphasized the inclusion of minor powers in

international politics. In contrast with the elitist nature of the European concert, it was a firstly truly international event and assembly admitting in peacetime representatives of twenty six countries and their respective public opinions, which were involved and influent at various degree in 1899 and 1907.

In diplomatic congresses rhetoric plays a role comparable to traditional parliamentary assemblies. Conflicting needs for secrecy or publicity, representation or accountability, are constant in both, yet the nature and degree of these needs are certainly discrepant. In a way, diplomatic assemblies are "quasi-parliaments" and need to be studied as such. Bernard Manin and Kari Palonen advocated an idea that 'debate is a basic parliamentary operation' meaning that items on the agenda are to be discussed in *pro et contra* style (Manin 2011; Palonen 2014, 107–112). International congresses were certainly not as regularized with various procedures as national parliaments, but they did involve discussion of matters in the committees, some elements of *pro et contra* discussion, and apprehension of politics of time. However, one element made them distinct from a parliamentary model proper: it was believed that decisions should receive an unanimous consent, which ostensibly ensured further compliance. Such opinion was shared at the Hague conferences (1899, 1907) and is still common in a number of international organizations. It does not, however, alter the fact that as sites for discussion international congresses created linguistic conventions, language traps, coined concepts, and facilitated perpetuation of the agreed upon terminology, even if it did not always correspond to the idea of 'legislation' akin to the work national parliaments. Thus, what these assemblies produced was a language of self-description, modes of justification offered to particular institutions and a range of values enlisted for their support. This was the language collectively spoken by states through their authorized representatives; as such it signposted the limits of the conventional and the legitimate expressed in the concepts and arguments used.