In this paper it will be argued that the modern vision of the international system allows the creation of an absolute enemy, i.e. the one who falls outside the dominant discourse is not only excommunicated but also deprived of the status of a just opponent. The outsider here becomes a non-value, which could be easily disposed of (Burchard, 2006: 31). Such a situation is not new. It is presumed that we are currently observing the return to the Medieval respublica Christiana, a religiously organised order with aspirations towards universality and homogeneity – a clear prototype of the modern theologico-political approach to global governance. It is the return of the respublica Christiana as the universal liberal community, albeit with a difference: if previously universal jurisdiction was embodied in particular religious authorities, then at present it is the rule of an empty norm. Therefore, it will be argued, the current international order could be seen as ruled by the new sacerdotium.

During the early medieval period the secular power not only enjoyed significant influence on the church (with the pope being politically and militarily vulnerable) but also directly exercised important religious functions and the church was deeply immersed in secular affairs. It was only after the reform movement within the church gathered pace in the second half of the eleventh century that a radical separation was made and the question of primacy acquired an exceptional prominence, especially on behalf of the church. The sacerdotium thus claimed the right to decide on the compliance of the secular power with the transcendent divine order and resulting membership in the Christian community. As a result, it was the so-called investiture struggle and the later conflicts that shaped the tension between the transcendent and the immanent modes of international order. This medieval pattern, it is be argued, is in more than one respect a precursor of the new nomos of the Earth.

It is true that the origins of international society lie in the society of monarchs that personalised their states and were essentially equal to one another. With the birth of popular sovereignty, this equality was transferred to the state as such. This system of mutual recognition by sovereigns (as persons or as peoples) is far from implying a common order but merely an awareness of sameness as well as factual and territorial separation thus mutually constructing each other’s identity (Carty, 2007: 6). Such has been the practice at least since the twelfth century when mutual recognition introduced the understanding of a (more or less) inviolable territorial sovereignty, equal rights, and independence in domestic matters (Pascua, 2008: 202), although a more formal understanding of territorial century (the so-called Westphalian system) did not develop until several centuries later. Also, the notions of respublica Christiana, which implied the oneness and integrity of the entire Christendom, and the community of regni et principes christiani, suggesting the division of Christendom between monarchs, coexisted more or less until Westphalia, signalling a certain transitory period (Lesaffer, 2004: 29). Subsequently, after this consolidation of monarchical power and the weakening of the sacerdotium, the system where “[t]he sovereign state does not acknowledge a central executive authority above itself; it does not recognize a legislator above itself; it owes no obedience to a judge above itself” (Lauterpacht, 2000: 166) prevailed until the twentieth century. An alternative to it would be a ‘global society’ of which every human is a member directly. Especially after the Cold War the latter appeared to be coming closer to reality in a world of states which are no longer supreme authorities but do have a law, a judge, and possibly...
even an executive above themselves (McGhee, 1992: 1).

The transformation of the international order “is visible in the fact that there is no representative of the whole that would not be simultaneously a representative of some particular. <...> Likewise, behind every notion of universal international law there is always some particular view, expressed by a particular actor in some particular situation” (Koskenniemi, 2004: 199). Such a formation of meaning is very often discursive. It establishes the limits of the sayable as entire practices and worldviews, especially concerning the extent of sovereignty, are discarded and reduced to empty speech at best, “destined to disappear without any trace” (Foucault, 1991: 60), and which utterances could be used and/or revived, either recent or of the previous epochs (such as the medieval just war tradition of the respublica Cristiana). These formations also tend to manage the inclusion / exclusion of certain subjects and entire states thus delimiting the boundaries of the ‘international community’. As summed up by Koskenniemi, “it is pointless to ask about the contribution of international law to the global community without clarifying first what or whose view of international law is meant. <...> it always appears through the positions of political actors, as a way of addressing political claims in a specialised technical idiom in the conditions of hegemonic contestation” (Koskenniemi, 2004: 199). The essence of these hegemonic practices is far from self-evident, and has to be analysed. For this, the very distribution and appropriation of the modern world will be looked at, primarily because “in some form, the constitutive process of land-appropriation is found at the beginning of the history of every settled people, every commonwealth, every empire. This is true as well for the beginning of every historical epoch” (Schmitt, 2004: 48). Therefore, the fact that the modern world has been completely appropriated has undoubtedly had significant effects on the law and order of the modern epoch.

The Completely Appropriated World

The world today has been completely appropriated. However, at least at the discursive level, it has been appropriated not by particular powers as it was previously the case, but by humanity in general. Technological changes and the shift of global power that happened during the first half of the twentieth century meant that land which was formerly free for expansion and exploitation became part of the international system and of international law on its own right. Finally, if the confrontation of the two superpowers during the Cold War still allowed lines of division to be drawn, then after the fall of the communist bloc, it is supposed, the world has become an increasingly integrated whole. The issue to be addressed here is that the appropriation by entire humanity does not in reality abolish lines and divisions. On the contrary, these distinctions acquire a new intensity because any lines drawn in such world signal a distinction between humanity and inhumanity that reach, once again, the intensity of political theology.

As it has already been noted before, a shift of attention has taken place from the international society of states and nations to the international society of humans. This is a fundamental shift of paradigm affecting economy, conventional politics, and security issues. The question of security is both illustrative and highly relevant for the subsequent discussion. It is well known that security has traditionally been the concern of states. States have been the prime objects of security and also the most important (and often sole) actors in security dilemmas. However, from the modern global standpoint this is no longer true. The emphasis is now primarily on individual security and therefore military means are no longer in the spotlight – what now counts are “economic, social and political conditions for people to lead a dignified life” (Evans, 2001: 1), and if previously these conditions were achievable by domestic policies, in modern globalised world, it is said, only the global level (and thus increasingly developed global governance) could fulfil the needs of the people (Evans, 2001: 1). Human security is thus portrayed as foreign policy priority of a modern state – and not only the security of a state’s own citizens but the security of the human community as a whole. Correspondingly, the state is no longer seen as an end in itself, and therefore not a viable object of defence as such but only an instrumental institution designed to facilitate human security (Weiss,
2012: 26). Furthermore, the very boundaries of modern states are being erased by economic, environmental, cultural influences, technology, and communication (Weiss, 2012: 15-16). Therefore, sovereignty as an enclosed totality is no longer seen as possible. In this interpretation it becomes “some metaphysical or, better, theological conception of absolute identity” incompatible with the modern world (Bates, 2012: 4). Correspondingly, a claim to sovereignty is no longer enough by itself – it has to be evaluated and certified by the international community to be valid. Furthermore, this validation is not given once and for all but is constantly reaffirmed if the state behaves well and can be revoked if it does not (Forsythe, 2004: 20). This clearly refers to an existing supra-state international morality (Goldstein, 2001: 295) and sanctions as well as the prospect of becoming a pariah in the international community if this morality is not complied with (Goldstein, 2001: 325). On the other hand, adherence to norms and expanding recognition of them is also linked to a progress of understanding in the Habermasian sense as a process of approaching the ideal norm through communication and argumentation (Wheeler, 2004: 31-32). In either case, a singular standard of global norms is presupposed.

The vital interest of the norm-centred international community is to be seen as embodying the interests of the entire humankind. Thus it is not surprising that as stated in the Preamble of the Rome Statute of the International Criminal Court, “all peoples are united by common bonds, their cultures pieced together in a shared heritage”. It even might be stated that the international community is not merely a community of subjects, but also an ensemble of norms, rules and practices (Fassbender, 2009: 66-69). Consequently, “[i]n the community is more than the sum of its constituent parts – it does not express a mere volonté de tous but a volonté générale” (Fassbender, 2009: 70), usually aiming at (according to the Preamble of the Convention for the Protection of Human Rights and Fundamental Freedoms) “securing the universal and effective recognition and observance” of human rights and other global norms, “those fundamental freedoms which are the foundation of justice and peace in the world and are best maintained on the one hand by an effective political democracy and on the other by a common understanding and observance of the human rights upon which they depend”. It is therefore not surprising that deviation from these norms is almost impossible or at least intolerable. As a result, what remains of sovereignty is the ‘capacity to engage’, i.e. to maintain relations in the international system but not to act independently (Agniew, 2005: 441).

A useful exercise in understanding the modern international order would be to look for analogies in the Middle Ages and, as far as sources are concerned, even to the late Christian Antiquity. One of such attempts was made back in 1977 by Hedley Bull for whom it looked likely that “sovereign states might disappear and be replaced not by a world government but by a modern and secular equivalent of the kind of universal political organisation that existed in Western Christendom in the Middle Ages” (Bull, 2002: 245) when no (earthly) power was entirely supreme in a territory supposedly under its command. Also, the theory goes, the very number of significant actors in the field of politics has grown (this proliferation being seen both globally and at the sub-national level) thus also dividing the loyalties of people that are no longer able to associate themselves wholly to one entity (Bull, 2002: 245-246). Similarly, in modern theory, it is argued, sovereignty and political association are becoming (or should become) disconnected. As a result authority, power, territory, loyalty would transcend particular communities producing new forms of dialogue and universal association based on deliberation and consensus (Devetak, 2002: 174). Global consolidation of democracy (and the resulting homogenisation of internal politics and economic policies) would then appear to be a necessary precondition of world peace. Bull’s theory, however, is overly optimistic when applied to the modern international system because it treats the changes as forming a path to greater freedom and emancipation. Therefore, without denying the value of his insight, there are further similarities with Medieval Europe (often drawing less optimistic analogies) than those proposed by most existing theories of new medievalism. These similarities mostly concern war, peace, and authority.
With the weakening and the eventual fall of the Roman Empire in the West, religious power gained increasingly more autonomy vis-à-vis the secular one and finally became an ordering power itself. At the same time it was no longer connected with the policies of a unified state but able to carry out a policy of its own and exert this policy over a fractured political landscape. This is one of the crucial differences between the Roman and the Medieval nomos. Power was understood, then, as given by God who was not only the source of any authority but also the ultimate source of any norm; the religious normative order also became the measure of rightness of human norms and of the obligation to observe them (Jonas of Orléans, 1999: 218-220). The very signifying structure became (more or less) absolutely vertical and transcendent. Also, for Honorius Augustodunensis, if the secular ruler disobeyed the divine normative order, he should be opposed and the prevalence of the higher law re-established (Honorius Augustodunensis, 1999: 266). Similarly, in the secular tradition, God himself was law (e.g. in Sachsenspiegel, the legal code known as the ‘Saxon Mirror’), and therefore law was seen as leading to salvation and the kingdom of God on earth (Berman, 1983: 521). Finally, it has to be kept in mind that if the secular normative order was extremely diverse and shared between authorities of many levels and kinds, the religious normative order was one (as far as Western Europe was concerned) and perfectly embodied in a single authority: the pope. The pope’s authority (auctoritas) was not a political or military power per se but a heavenly mandate to order, teach, and ‘correct’, for the own good of those corrected or taught and for the community as a whole – or else they would perish (Bernard of Clairvaux, 1999: 273-274). On the other hand, force could still be wielded indirectly as the secular sword could be drawn against the enemies of faith (Bernard of Clairvaux: 1999: 276), the secular ruler thus acting as a proxy agent of the religious power. This was a just war, intended to enforce the true faith and the supreme heavenly normative order. Finally, Thomas Aquinas managed to integrate the law of state and the divine order as mediated by natural law. State law was a punishment and remedy for sins (poena et remedi peccati) and as such the necessary consequence of the fallen human nature but also necessary for earthly life. However, at the same time it was subjected to natural law (the divine plan as observable in this world) and divine law (God’s very idea of things as they should be) (Douzinas: 2000: 58). This was a clear enhancement of the natural law as defined in Corpus juris civilis (where it was conflated with the law of nations) and Roman law in general by adding a clear moral dimension as well as universality to it. Natural law thus signalled the path to salvation, integrating both will and reason (Bauer, 2004: 205). It is only in such an overarching transcendent normative structure that an absolute and existential enemy against whom a just war could be fought was possible.

It is said that the current moral solidarity, contrary to the Christian one, knows no borders and no ‘others’ (Brown, 1995: 106) because there no longer are ‘pagans’ or ‘infidels’ that reject the order. This is only partly correct, however. In a fully appropriated world an exception, the outside of the law, is created only temporarily, only as an instance. However, this is precisely the instance of potential just war, and therefore, instead of resulting in unity, a completely appropriated world only allows for new kinds of enemies. Its supposed inclusion only masks a warfare continued by other means (Rasch, 2003: 130). The question that remains is who decides the definitions of reason, the human and human rights, on the distinction between decent and indecent, the police and criminals (Rasch, 2003: 141-142). Importantly, when action is taken against those deviating from a universal normative structure, this action is not war in the standard sense. Just war is first and foremost police action combating criminals and wrong-doers. The very possibility to distinguish between war and peace is lost because the police do not sign peace treaties with criminals – they can only be convicted (de Benoist, 2007: 79). Such war is a war on one side only: the police are fighting crime. Consequently, only one side is entitled to victory. As noted by Carl Schmitt, “To war on both sides belongs a certain chance, a minimum for possibility of victory. Once that ceases to be the case, the opponent becomes nothing more than an object of violent measures” (Schmitt, 2003: 320). Also, the enemy must not be simply defeated – it must be eliminated in order to remove
the threat to the righteous part of the (national or international) society; in other words, it is an absolute war (de Benoist, 2007: 80-81).

Just war relies on the assumption that the enemy is outside the *nomos*. In the Medieval *nomos* this meant being outside the *respublica Christiana* while in the new *nomos* of the earth this means being outside the human community (which, in its functional aspect, is almost one and the same). This similarity is interesting in the sense that the Medieval *nomos*, despite its universalistic pretensions, did not posit itself as global (at least not global *as yet*) and therefore existence outside the *nomos* was a known and observable (albeit pitied and detested) fact, while the modern one posits itself as both universal and global (precisely because the world has been completely appropriated), which makes otherness not a fact but an exception, a temporary dis-appropriation of a territory by humanity as such. This is also a difference from the Westphalian *nomos*, which was also global but by no means universal, and its very global character rested first and foremost upon the significant elision of non-Europeans. However, a question still remains: if the Medieval *nomos* of the *respublica Christiana* was based on religion as its unifying element, what is the political theology of the new *nomos* of the earth? Probably the strongest political theology of the new *nomos* is the theology of human rights. Indeed, to claim something as a *right* (in opposition to a mere wish) is to elevate the claim above any political contestation and above any authority (Koskenniemi, 2004: 208). Human rights are indeed deeply entrenched in international law, primarily in the Universal Declaration of Human Rights and the covenants on civil, political, and economic rights with states being increasingly unable to hide behind the shield of sovereignty (Evans, 2001: 7-8). As a matter of fact, they are so high in the global agenda as to truly become a unifying element of world civilisation and cannot be disregarded and refuted by any local authority if it wishes to remain a part of the global human community” (Evans, 2001: 42-43). The human rights regime itself is seen as institutionalised strongly enough so as there not to be a way back to the old regime of nation-states and their own particular orders (Forsythe, 2004: 7). Keeping this institutionalisation and the transcendent character of rights in mind, it is not difficult to understand why politics is seen as merely an impediment to the progress of human rights and continuous emancipation (Evans, 2001: 9): politics is necessarily about division and particularity while rights are about unity and universality that are beyond contestation.

Not surprisingly, the international community has reserved itself a possibility to intervene and enforce rights, especially as after the Cold War the line between security and human rights has been blurred (Forsythe, 2004: 57-58). It is even more than that, however. The declarations of human rights and the whole body of international law relating to them set the standard of humanity by establishing an authoritative, final, and incontestable definition of the human essence. Essentially, “The declaration of human rights is a judgment about man. It establishes the paradigm for every predicative judgment that men can make about men, and defines the human being as the one who is essentially judging, equally essentially judged and inescapably condemned to judge himself” (Hamacher, 2006: 674-675). Such a standard is never descriptive because it never refers (and never aims to refer) to particular beings. Like any transcendent norm, human rights are prescriptive and evaluative. As such they also do not need to be legitimated – they only need the initial moment of belief to cover the closure of having no clear foundation in life. Indeed, this is a matter of ( secular) faith.

**The Rule of the Void**

Indeed, the mixed authority of political (and nominally non-political) bodies and the mixed loyalty of modern citizens postulated by the neo-medievalist approach mentioned above have a significant degree of validity in today’s world (Linklater, 2001: 627). However, a further elaboration of this issue is needed and several pressing similarities have to be elucidated as this approach is often unduly superficial. In the modern worldview the liberal international community has replaced the medieval *societas Christiana*. Also, as the mystical body of Christian society, into
which the Roman *respública* had been transformed, made any constitutive part subservient to the whole of the *Ecclesia* (Loughlin, 2010: 29), the new *corpus mysticum* of secular ‘humanity’ takes precedence to the parts that compose it. At the same time the transcendent religious normative structure, upon which entire life, including the secular power, depended, has been replaced by an equally transcendent international normative structure based on rights. The main difference, however, is that while in the original theory the religious sword was attached to a particular holder, in the modern one there is only the norm. Therefore, it is a repetition, but a repetition with a difference. Correspondingly, whereas the medieval religious normative structure was embodied by the religious establishment (*sacerdotium*), particularly in the person of the pope in persona *Ecclesiae* who conveyed and in some cases enforced the transcendent norm, the modern *nemos* could be described as the rule of the *sacerdotium*, i.e. the transcendent norm is here but it is disembodied and dispersed. However, there is not necessarily even a widely felt need to fill this *sacerdotium* with content, to have a body representing a norm and making the (sovereign) decision (e.g. a strong UN). It is precisely because of this void that arbitrary decisions by states are possible, and this only increases the influence of the power-states.

Also worth consideration is the status of law which is once again more found than created, reminiscent to the law of pre-sovereign medieval Europe when the notions of the state and of the law-making authority had not yet been developed. Even when laws were *made* they were either based on previous custom (e.g. the Salic law of the Franks) or, following Church writers, notably Isidore of Seville, with the reference to the common utility of the people; similar understanding can also be found in the *Decretum Gratiani* where the legislator has the function of protecting and developing the already existent body of law (Harding, 2001: 192-193). Correspondingly, whenever the already-existent body of law was transgressed, the rulers, in theory at least, lost their authority (Loughlin, 2010: 94), if not necessarily their power. This is especially visible as far as human rights are concerned. Notably, the very structure of the rights discourse presents these rights as always already existent and therefore any new right is discovered rather than created, having previously been lost, unnoticed, or neglected, and thus valid also retroactively. Here one encounters what could be called a Munchhausen paradox: the whole international normative structure has to lift itself by its own hair.

Furthermore, the very sources of law are, as in the medieval period, significantly mixed. In addition to the secular sources of law there was and still is either the canon law of the Church or the transcendent norms of the ‘international community’ or even ‘humanity’. In the Middle Ages not only their jurisdictions overlapped (i.e. the same cases could be referred to both authorities) and the same people often were simultaneously canon lawyers as well as ministers of secular justice (Musson, 2004: 13-14) but also in the way that religious norms “influenced the secular world law both in terms of substantive legal principles and in the psychological overlap between law and morality” (Musson, 2004: 14), either by transference or through preaching and teaching. In practice this meant not only independence but also supremacy of the *sacerdotium* and particularly of the pope as the highest source of norm and influence (Barber, 2004: 111). Now, as then, quasi-ecclesiastical human rights courts and the moral-political influence of transcendent norms on national legislation prevail. The new *sacerdotium* is once again central to the formation of legal-normative consciousness and is the source of preaching.

Fragmentation – yet another similarity – has been widely discussed by neo-medievalists. Definitely, the modern fragmentation appears less in the form of oscillation between the ideal of the bonds of fidelity based on one being “harmless, safe, honorable, useful, easy, possible” (Fulbert of Charther, 2010: 376) to the higher authority on the one hand and the brutal reality of treason and seizure of land (see e.g. Hugh of Lusignan, 2010: 377) on the other. What is important in this case is not only the diffusion of authority and loyalty, the ability of the people to identify themselves with a number of bodies simultaneously without prioritising one or the other, so often stressed by the neo-medievalists, but first and foremost the shift of production of meaning from the national to
the supra-national (and supra-political) level. As a result, fidelity to the transcendent supra-national meaning and to its earthly agents is vital to maintaining the security and integrity of the political body. As prescribed to the Frankish king Clovis by bishop Remigius after the conversion to Christianity of the former, “[y]ou should defer to your bishops and always have recourse to their advice. If you are on good terms with them your province will be better able to stand firm” (Remigius of Reims, 2010: 129). Similarly, following the requirements of pope Gregory VII to Henry IV in the midst of the conflict between the imperium and the sacerdotium, a crucial element was to follow the ‘dutiful obligation’ of the earthly ruler to counsel the clergy in order to be ‘worthy of divine protection’ (Gregory VII, 2010a: 555). To put it in other terms, in a world of divided loyalties fidelity can be ensured only by recourse to outside. Such is also the nature of sovereignty in today’s completely appropriated world. Once again the ruler has to fulfil the ideal of providing laws and justice as well as the prevalence of universally commonsensical rationality (Galbert of Brugges, 2010: 383), but most importantly being “lord and father, and advocate of the churches of God” as well as “pious, gentle, compassionate, an honor to God and an ornament to the Church” and constantly “seeking the justice of God and the welfare of those over whom he ruled” (Galbert of Brugges, 2010: 385). One only needs to substitute the Church and God with humanity and human rights to get a perfect embodiment of the modern discourse. As no national authority (in contrast to the transcendent one) can claim plenitud potestatis, plenitude of power, their self-sufficiency is effectively eliminated. In the meantime, just as the clergy performed a crucial role in integrating the Christian community due to belonging to one body and through the lingua franca of Latin (Loughlin, 2010: 31), today’s integration of ‘humanity’ is to a significant extent the work of the agents of the new sacerdotium through the universal production of meaning. Therefore, the elements and effects of medieval and modern fragmentation bear noticeable and important similarities.

As power has to be confirmed externally and is once again derived from the community, understood in universal and not local terms (i.e. respublica Christiana or ‘humanity’), removal from the community (the ‘international community’ in the modern discourse) or, more precisely, excommunication is the ultimate punishment. An excommunicated person looses his/her rights, protection, family and social ties, the very status of a person, and, most importantly, the chance of salvation (Hemholz, 2010: 373-374) with admission of one’s mistakes and penitence being the only way back (Bredero, 1994: 11). The excommunication of a secular ruler effectively meant the loss of power to command and severance of all ties of obligation that were owed to him. As stated by pope Gregory VII in his excommunication of Henry IV: “I deprive King Henry, son of the emperor Henry, who has rebelled against thy Church with unheard-of audacity, of the government over the whole kingdom of Germany and Italy, and I release all Christian men from the allegiance which they have sworn or may swear to him, and I forbid anyone to serve him as king” (Gregory VII, 2010b: 557), albeit with the possibility to be reinstated in the Christian community (and, correspondingly, to his temporal power) once he repents (Gregory VII, 2010b: 560). In the meantime, however, the authorities of the Empire were addressed with the following command “[m]ay you be worthy to rescue his [Jesus’] Bride, our Mother, from the jaws of the wolf, and may you attain to his supreme glory, cleansed of all your sins” (Gregory VII, 2010c: 561). Therefore, struggle against the power that had lost divine sanction was not only necessary but also holy. If this meant resort to war, such war was undoubtedly just. Needless to say, such just war against an outcast of the ‘international community’ is the cornerstone of humanitarian intervention.

The international normative structure has to be enforced and policed so that its emptiness would not be disclosed. Therefore, the logical consequence of both the elimination of the national and the rule of all-encompassing normative system is the right of the international community to remove certain heads of state and/or to change the regime in general because, as stated in the Preamble of the Universal Declaration of Human Rights, “disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind” and thus “the
advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people” has to be ensured. Indeed it could be said that “[t]he idea of international community is grounded in the belief that in cases of egregious human suffering, the members of this international community are entitled, individually and collectively, to intervene on behalf of humanity and against barbarism” (Bain, 2003: 161). This is the function of humanitarian intervention or any of its more or less formal (i.e. properly sanctioned, widely accepted and otherwise ‘just’) functional substitutes.

Also, what has to be taken into account is the very attempt to eliminate war as such. Indeed, already in the interwar period such attempts were made within the League of Nations and beyond. However, this elimination is particularly clear in the modern nomos, where legal ‘war’ is nonexistent. What do exist are the various sorts of self-defence, either as the right of a state to defend itself or as a right of the international community (understood as humanity) to defend itself. Other conflicts are either civil wars or skirmishes outside or on the outskirts of the civilised world. When an act of aggression takes place, the initiator automatically becomes the culprit and the one who defends, a noble victim. The issue is that the prohibition of war means only the prohibition of unjust war (Schmitt, 2003: 274). When a justa causa exists, war is allowed and even supposed to take place, albeit under a different name. As a result, the criminalisation of war does not apply to those who have the power or naming. Those who have the power are able to render their wars under ‘acceptable’ names, humanitarian intervention being one of them. And even when a formal permission of the international community is not granted, righteous wars under the guise of police action are still being fought – one only needs to remember Kosovo or Iraq. As a result, what happens is not the elimination of war but the monopolisation of legitimate use of force.

There is, however, one major difference between the struggle of imperium and sacerdotium in the medieval era of which excommunication was an important political weapon of the pope and the present-day realities. In the Middle Ages both sides struggled within the same respublica Christiana and essentially within the same theologico-political framework – this was not yet a struggle between the state and the church as clearly separable entities (Loughlin, 2010: 32). However, when the sacerdotium is disembodied, a struggle is possible only against the order (and nomos) as such. Therefore, not only the modern nomos is more prone to abuse but also any fundamental conflict involving its essence is potentially more dangerous and destructive. In a completely appropriated world ‘humanity’ as such that exercises a form of self-defence against its enemy. This is certainly true in terms of rhetoric while in practice the locus of restraining power could be found in the UN Security Council, keeping in mind that Article 24 of the UN Charter explicitly stresses that the members of the organisation “confer on the Security Council primary responsibility for the maintenance of international peace and security, and agree that in carrying out its duties under this responsibility the Security Council acts on their behalf”. However, state practice, especially the cases of Kosovo and Iraq, shows that the role of the protector can be usurped by a ‘coalition of the willing’ when state interests dictate. As a result, the restraining force is once again (more or less) disembodied and open to abuse.

To reiterate, when the entire world has been appropriated, the system depends upon temporary zones of exception that appear or are created and then either eradicated or kept as a (more or less) perpetual reminder of the outside, be it Libya, Iran or others. In most cases escalation and the ability to contrast the own and the alien is enough to exert and maintain influence as well as to integrate the ‘own’ camp more closely. These exceptions both confirm the validity of the international system and often also provide a source of threat against which the global community has to be defended. In short, the status quo has to be contrasted with an inferior otherness in order to be constituted as worth protecting. This protection, in turn, is primarily the field of power: as summed up by Morgenthau, “[t]he policy of the status quo aims at the maintenance of the distribution of power which exists at a particular moment in history” (Morgenthau, 1985: 53). However, it is only through the attachment of the ‘noble cause’ of the international community or society as well as to the
‘objective’ pre-set order that the status quo can maintain its legality and appeal.

Conclusions

The interrelationship between the secular authorities and the representatives of transcendent universalism has never been simple. Indeed ever since Gelasius I formulated the doctrine of the two swords in the last years of the 5th century, an attempt at separation always ended in an explicit or implicit postulation of supremacy of one or another, e.g. Gelasius’ own formulation featured a claim of secular power being delegated and directed by the church (Hooker, 2009: 138). However, the two powers constantly were indispensable one to another. It is worth noting that today also international law, international justice, and the universal notion of humanity “has neither arms nor legs of its own, and therefore cannot operate if prostheses are not made available, namely the arms and legs of the states” (Condorelli and Cassese, 2012: 16). In addition, the states are still the main actors that codify international norms in treaties, covenants, and other agreements (Condorelli and Cassese, 2012: 15), even if they are no longer necessarily the sole actors that produce and initiate the norms. As the international normative structure, just like any other transcendent form of signification, can appear only through its own effects, i.e. the acts of states and the convictions of their citizens, any final rendition of the norm still looks problematic. Paradoxically, the states are then at the same time patres et filii (to adopt a formulation from medieval imperial political theology) of the international order. Therefore, Morgenthau’s classical formulation that the states “meet under an empty sky from which the gods have departed” (Morgenthau, 1985: 274) is hardly sustainable at least on the functional level. It should by no means be implied that all states are equally free to decide and participate: the international is never a plane of absolute equality.

The international system, being a manifestation of the new nomos of the completely appropriated earth, postulates the unity and integrity of a universalised humanity; nevertheless, it still needs an outside to affirm itself: ‘rogue states’, ‘axes of evil’, ‘tyrants’ etc., which either retain their sovereignty as a perpetual reminder, thus remaining in the ‘international community’ as its negative side, or are effectively banned (excommunicated) and face a ‘humanitarian intervention’, sanctions, or other similar action. It is more than that, however. Such a system is open to uses and misuses by the powerful (mostly Western) states that are able to redefine the constitutive outside of the system and thus use diplomatic, economic, and military power according to their own interests by restraining the outside of humanity – the inhuman enemy or Antichrist. Moreover, the rule and institutionalisation of bare norm and singular rationality helps to maintain the status quo and to further stigmatise the outsiders, who are no longer adherents of a different position but ‘irresponsible’, ‘irrational’, and otherwise inferior, drawing a clear distinction between meaning and non-meaning, those who are capable of having a voice and those who are not. It is here that one can speak of the new sacerdotium: the prevalence of functionally transcendent international norms that govern the international community but lack the embodiment once enjoyed by the (supposedly) universal church. As such, the norms could both be claimed to be more objective (because seemingly disconnected from any human factor in their functioning) and be used and misused more readily (because anyone with sufficient power can claim to be the medium through which the law speaks). Also, any struggle against the sacerdotium as the rule of empty norm is much more difficult because there is no clear opponent (or, if a struggle could be waged, it would be a struggle against humanity and reason).

Looking at the new nomos of the earth, there might be good reason to embrace Augustine's division of the two cities in a certain way. This adoption consists of acknowledgement of the temporality and frailty of any earthly affairs as well as the durability and normative order of the celestial city, the former being the field of politics and the latter a political theology. However, in part divergent from Augustine, it can only be brought to life by earthly politics and power relations. Meanwhile, similarly to Augustine, there are some earthly cities that are privileged and are therefore allowed to exert their influence justly. This should not be read as asserting the primacy of religion in any way. What is meant by the religious analogy is that the god of political theology has
the same (or extremely similar) immanent-unconscious nature as the god of religious theology. And only in this immanent-unconscious way is theology indispensable for any meaningful (international) political life.

Bibliography


Treaties
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