

# State Failure Characterised by the Westphalian Model of Sovereignty

Written by James Bingham

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## Introduction

Following the end of the Cold War — and particularly post-September 11th 2001 — the issue of ‘failed states’ in international political discourse has risen in prominence. The challenge to international order and security these states represent has directly led to military interventions, most notably the cases of Somalia and Afghanistan, as well as cases of civil strife, famine and ethnic and sectarian conflict. The implications of fragile and failed states in a globalised world means that the consequences of state failure do not occur in a vacuum and can have security implications for the international community at large, not simply the populations of the states in question; the issue of Somali piracy being the most prolific example. Academic work has conceptualised this shift as a move from the ‘security dilemma’ which defined the Cold War security environment, to that of the ‘insecurity dilemma’,<sup>[1]</sup> where threats are more likely to originate from within, as opposed to between, states. This in turn signifies a change to the traditional model of international order. Despite the wide academic and policy-making debate over the causes and solutions to the problem of failed states, there are several fundamental gaps; the lack of a clear definition of what ‘failed’ states are hints at the problem. However, it is not within the remit of this essay to tackle the causes of, or solutions to state failure — only the principle characterisations of state failure and the relationship between these and the fundamental principles of state sovereignty will be addressed. In order to gain a nuanced understanding of what state failure is one must define what substantiates a ‘state’ — the question of sovereignty. Whichever definition one chooses to use to define state failure, the challenge to a state’s sovereignty is the fundamental principle underpinning the concept of when a state has begun to fail, or has collapsed. Sovereignty is not, however, a simple idea either; the different elements constituting how sovereignty is challenged or destroyed in fragile and failed states must be drawn out and used to indicate how states remain stable and functional. Indeed, this must be taken further to highlight how failed states are not isolated events but signify a normative shift in international relations away from the Westphalian model. The relationship between sovereignty and state failure is not a direct one — as the theory of ‘quasi-states’ highlighted in this essay shows — but understanding such a relationship allows for a better appreciation of what constitutes state failure. Defining the nature of state failure can only be understood in terms of sovereignty; in order to establish how sovereignty and state failure are interwoven, the definitions of state failure must first be established. In parallel, the concepts underlying sovereignty must be highlighted in order to expose the fundamental nature of sovereignty in regard to defining when a state has failed, and as such the challenge to a Westphalian model of international order failed states represent.

## Defining State Failure

The most simplistic definition of state failure is that of a binary world; – divided into ‘stable’ and ‘failed’ states, with a blurred boundary between the two; this definition becomes severely problematic when viewing states on a case-by-case basis. For example; where does Mexico fall by this definition, in terms of its severely degraded internal security situation? A more insightful definition is that given by Robert Rotberg, who assigns grades of severity, beginning with a ‘weak’ state, moving through to ‘failing’, ‘failed’ and finally ‘collapsed’. This graded classification assigns attributes of severity to each of the failures in state function, including ability of the state to collect taxes, provide legal structures, the extent of corruption and criminality, group and gender-based inequality and the ability to provide

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safety and security for its citizens, amongst others. The 'Failed State Index'[2], produced by the US think tank Fund for Peace, uses twelve such indicators — grouped into political, economic and social categories — to produce a severity rating for the stability of states, ranging from 'sustainable' to 'alert'.

However, defining a state as 'failing', 'failed' or 'collapsed' is problematic in itself; the use of such terms can have the unintended consequences of oversimplifying relative geopolitical, economic and/or societal conditions, painting complex (often transnational) situations — which may change from place to place and from month to month — with an unhelpfully broad brushstroke. Furthermore, there is the problem of such terms becoming a value judgement, when labels such as 'failed state' become an avenue for securitisation of such terms,[3] especially in a post-9/11 international security environment, when failed states have become to be seen not as sources of humanitarian concern, but rather as direct threats to the interests and security of states such as the United States and Britain. However, despite the problems associated with defining when a state has failed or is failing, the fundamental component of such definitions is that of the breakdown in function of states when viewed through a Westphalian lens. This, as the traditional paradigm of sovereignty in the international system, (as well as the problems inherent with such a paradigm) must be established and used in order to construct a nuanced picture of state sovereignty, and as such help to build a better picture of state failure.

## The Challenge to the Westphalian Model

The traditional model of statehood and sovereignty originates in the Westphalian system, established following the peace of Westphalia in 1648. Defining the normative principles of sovereignty the Westphalian model is founded upon is necessary in order to define how failed states are characterised and how they signify a move away from the traditional state model of power and security. This is the theoretical model which has been used to define states as governed territorial entities, with an established sovereign power governing the internal workings of the state, as well as the relations between other sovereign states. Newman defines this system as being based upon the principles of the 'sovereignty of each political unit (the state), territoriality and non-intervention (internal sovereignty)'. [4] Various prominent school of academic thought, principally those of realism and liberalism, focus on the relations between states as the driving forces behind international relations. Newman characterises such international interactions; 'within this model the international system is characterized by cooperation and conflict amongst viable and rational states in an anarchic environment, reflecting pluralist norms of interaction in diplomacy, law and multilateralism.' [5] However, academic debate arguing that the Westphalian model has not reflected the reality of the international system [6] has centred on the prominence of intrastate, transnational entities and influences being a key influence within, and to, the international system, contrasting with the traditional Westphalian model's view that states are the sole arbiters of international dynamics and relations; challenges to the model have been a persistent norm within the academic discussion of the term. Indeed, the 'insecurity dilemma' [7] that has emerged following the Cold War maintains that the main sources of insecurity in the current international system — primarily civil war, international crime, insurgencies and state failures — are increasingly eclipsing the traditional interstate conflicts that defined the Westphalian norm. As such, the security challenges to many states today originate not from other states, but from dynamics within their own borders, or from dynamics that transcend international borders. As such, challenges to state sovereignty are the principle security concerns in the current security environment; state failure being the most influential example of how traditional Westphalian order is being undermined.

## Westphalian Sovereignty as Used to Define State Failure

There are a variety of definitions of 'failed' states, however, each of these definitions share common ground, which can be used to highlight the fundamental role that the previously defined nature of sovereignty plays in defining when a state has 'failed'. Each of these definitions relies on a set of observable (both quantitative and qualitative) characteristics that constitute to what degree a state has failed. A basic conceptualisation of state failure can be characterised by three principle issues. These issues can be classified as 'deficits' [8], when states cannot or will not carry out necessary functions; a security deficit, a capacity deficit and a legitimacy deficit.

The first of these is that of security; when there is widespread, mostly unchecked violence within a state, possibly including sectarian or ethnic violence amongst the people, the state has lost the monopoly of violence [9] that is

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central to the idea of a functioning sovereign state. This is concisely argued by Max Weber, who defined the principle legitimacy of a state by 'the ability to successfully hold a claim to the monopoly of the legitimate use of force'.<sup>[10]</sup> When criminal gangs, sectarian militias or terrorist organisations begin to operate and use force with relative impunity — when violence has become widespread and unchecked — the state has lost the legitimacy of being the sole designator of violence. Kaldor refers to this in terms of the processes of globalisation and the subsequent 'privatisation of violence'<sup>[11]</sup>; indicating how transnational dynamics, such as powerful non-state actors, are becoming increasingly potent in a globalised world, challenging the state-centric Westphalian model. Such an example is that of militant Islamist groups such as Al-Shabaab in Somalia challenging and destroying the government's ability to govern. The internal sovereignty that a state must have in order to replace anarchy within its borders — to provide the most basic function of the state, that of control and order — is undermined or destroyed by the erosion of the state's monopoly of violence. The ability of the state to provide security for its internal population is the most basic function a state within the Westphalian model can provide.

The capacity deficit is characterised by an inability of the central state to provide crucial services to the population (such as water, healthcare, a judiciary and security, amongst others), due to severely degraded economic or political capabilities. Hence there is an erosion of the social contract<sup>[12]</sup> which underpins the stability of sovereign states. When the sovereign of a state no longer has the capacity to provide such services, particularly in more remote or contested areas, other groups can step in to fill the governance gap. An example of this is the use of Islamic courts — organised by the Taliban-led insurgency in Afghanistan — to settle land disputes in remote areas despite the existence of a nominal national government in Kabul.

The final deficit is that of legitimacy, when there is a severe lack of exercisable and legitimate authority over the territory of a state, as well as the ability to interact effectively with the international community. In most cases of state failure this is characterised by the population choosing (or being forced) to accept alternative forms of authority (such as traditional clan-based governance systems, or criminal organisations). The most important example of this is during insurgencies, when the control of the population is the principle aim of both the insurgent and the counter-insurgent (the state), such as the Tamil insurgency in Sri Lanka. The population may find itself in a governance vacuum (a state of anarchy) which the insurgent (or criminal organisations, such as narcotics cartels in Mexico) fill, effectively overriding the sovereignty of the state in which these events occur. However, it must be noted that these issues may not affect a state uniformly, with significant variations within the state's territory, with more remote rural areas potentially being the more severely affected and the capital city the least in certain cases, for example. As Rotberg correctly points out; 'failed states are not homogenous... the nature of state failure varies from place to place, sometimes dramatically.'<sup>[13]</sup>

These characteristics and causes of state failure, however, are not in a linear relationship. There are many weak or 'fragile' states (to use Rotberg's classification previously described) that exist in stasis, with a 'discrepancy between the *de jure* system of state sovereignty and the *de facto* nature of many states'<sup>[14]</sup>, maintaining their weak or fragile status without slipping into the 'failed' or 'collapsed' categories. Here, Jackson's theory of 'quasi-states' and the link between relative state stability and insecurity is particularly relevant in this regard.

## Quasi-states and the Westphalian Model

The theory of quasi-states is based on the constructed normative theory of 'negative sovereignty', proposed by Jackson. This theoretical construct is based on the principle that many 'Third-World' states have the legal status of internal sovereignty — protection from external intervention — but lack the capacity to provide many of the services and order that defines European-centric 'positive sovereignty' (which can be defined as fulfilling each of the three 'deficit' areas used to characterise failed states previously). Hence, quasi-states cannot guarantee human rights or government systems such as a judiciary or security provision. As such, quasi-states only partially fulfil the necessary characteristics of sovereign statehood defined by the Westphalian model. Jackson argues that such quasi-states exist only due to the 'uncritical and widespread faith in self-determination and equal sovereignty' possessed by post-colonial powers and the majority of the international community. Furthermore, Jackson states that such quasi-states 'enjoy an unqualified right to exist and high prospects for survival, despite their domestic disorganisation and illegitimacy.'<sup>[15]</sup> Following Jackson's work, further academic discussion pointed to the relative weakness of states as

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the principle cause for the onset of violence.[16] As such, quasi-states as a normative construct is useful in defining the potential causes of state fragility and possible subsequent failure, with such a concept rooted primarily in the concept of sovereignty as the defining factor in state fragility. However, the concept is based on the *acceptance* of quasi-states within the international system by other states. Hence it does not move away from the Westphalian model as it retains the primacy of sovereign states as the principle actors influencing international relations and not the transnational and stateless dynamics that characterise a move away from the Westphalian system.

## Conclusion

The Westphalian model of sovereignty is fundamental in characterising when states fail. The Weberian notion of sovereignty it represents — whether a reflection of historical reality or not — is important when determining when the core functions of a state have ceased to be implementable, as well as when the state loses exercisable sovereignty over its territory. Indeed, it has been argued that past a point on the scale of failure the notion of sovereignty becomes redundant[17] and humanitarian intervention can be legitimised without violating the sovereignty of the failed state in question, indicating the fundamental necessity of sovereignty in preserving international order. Despite the academic discourse arguing that the forces of cultural globalisation, global economic interdependence and transnational identity[18] are serving to erode the structural integrity of the Westphalian model of state sovereignty, sovereign states retain their primacy in defining international relations. The issue of quasi-states addresses the problem of enduring fragile states in the international system, with the limited nature of sovereignty in such states symptomatic of the scale of stability which sovereignty delineates. As such, the concept of a failed state can only be viewed in terms of the Westphalian model; the international order in which states co-exist is challenged by the degradation of the fundamental principles of sovereignty which failed states represent. Hence, the Westphalian model serves to provide the frame of reference against which state failure can be characterised and diagnosed; policy makers must move away from the paradigm of failed states as humanitarian tragedies and begin to view state failure as an erosion of the fundamental aspects of what constitutes a 'state' in the international system, only then can the root causes of state failure be located and solutions found.

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