In the eyes of all mankind: Interests and independence in Vattelian statehood

Catherine Frost
McMaster University, Canada

Rebekah K Pullen
McMaster University, Canada

Abstract
Emer de Vattel’s argument that states should be understood as free and independent bodies operating as moral persons in the international sphere is credited with launching a doctrine of sovereignty that hardened national borders against external interference or obligation. It also helped launch one of the world’s first modern states through its influence on the American founding. Vattel’s theory rests upon the critical role of judgment, specifically, the judgment of interests. That doctrine requires that states must always think for themselves, but not only about themselves. Offering some justification for international action, even in the midst of disagreement or war, is what separates civilized from villainous nations for Vattel, and this grounds interests in the communicative habits of an international community. Because the judgment of interests incorporates a communicative element, Vattelian internationalism cannot become exclusively self-regarding, and state interests cannot be entirely contained within national borders. Instead, Vattel’s distinctive combination of independence and interests is set within a global community that makes the fate of outsiders the business of every state.

Keywords
Emer de Vattel, independence, interests, international declarations, international law, statehood

Corresponding author:
Catherine Frost, Department of Political Science, McMaster University, Kenneth Taylor Hall, Room 510, 1280 Main Street West, Hamilton, Ontario L8S 4M4, Canada.
Email: frostc@mcmaster.ca
Emer de Vattel’s 1758 *The Law of Nations* is among a select group of works credited with framing the birth of modern internationalism. His writings were pivotal for the American founding and Armitage (2013) calls Vattel “the single most globally influential moral and political writer” of the late eighteenth to early nineteenth centuries, saying the period could be considered a “Vattelian moment” (pp. 222, 224).

This project revisits an important question arising from this legacy: why are states like people for Vattel? The question has been addressed as part of a broader exploration of the personhood analogy at the opening of the modern era (Holland, 2011) but the aim here is something different. Rather than locate Vattel in the genealogy of the modern state, the aim is to distinguish his contribution from the legacy of internationalism that followed. The argument is that for Vattel states are like people first, because they have interests, and second, because they communicate with one another about those interests. State interests not only affirm their independence, they also underwrite interconnectedness through wise diplomacy. Interests are not fixed and transparent in his theory, they are opaque and uncertain, the objects of investigation and assessment. They shift with circumstance and rest very heavily on what can be determined about any given situation. The struggle to pin down the requirements of self-interest makes the readiness to communicate one’s position candidly and thoroughly a central lynchpin in the international equation. This was perhaps the most important lesson the American founders drew from Vattel.

This communicative imperative points to the challenge that Vattelian interests pose to rigid ideas of internationalism, and signals a dimension of statehood that can never be entirely contained within national boundaries. While the tendency has been to stress tensions in his work that foreshadow isolationism in international law, interests remain a constant feature of his argument. Because they serve as an index for states’ legitimacy, the Vattelian state can sound like the Hobbesian individual writ large. But Vattel takes a different tack, as states cannot act—or think—like individuals when it comes to interests. What states share with persons is that their interests are always murky and shifting, making efforts to secure them fallible.

Yet however imperfect the effort, both states and people have a duty to make sound judgments concerning them. In moral terms, both are free and independent with regard to this core responsibility. In the case of states, however, interests are no longer atomized; they are social and collective and this makes all the difference. Since state interests are already collective, to the point of transcending national boundaries on occasion, Vattelian sovereignty can be independent with regard to the judgment of interests without lapsing into isolationism. By showing that the relationship between interests and judgment at the heart of Vattelian statehood contains an irreducible communicative dimension this project contends that while Vattel might be in the lineage of non-interventionist sovereignty he is not its progenitor.

Starting with his protean reputation in the history of internationalism, the discussion moves to consider his use of the personhood analogy. To see why this analogy drives so much of Vattel’s thinking it’s helpful to consider the uncertainty and speculation that interests entail for Vattel, whose great insight was that certain kinds of international behavior prove constructive for managing uncertainty and securing public happiness. Although Vattel’s internationalism stopped short of global institutionalism, his
personhood model of the state dictated certain minimal expectations around international discourse and engagement. These expectations are most explicit when it comes to outright conflict and Vattel sets firm requirements that war must be declared and publicly justified before hostilities begin, so that all parties and observers can weigh their interests in light of a new situation. These passages were especially influential for his early American readers, leading the founding fathers to frame a Declaration of Independence as the first act of statehood. Attention to how interests shape the moral personhood of the state as a judging and speaking actor thus reinvigorates what makes Vattel distinctive as a theorist of the international, without making him the fall guy for self-serving internationalism.

**Vattel in international theory**

Among Vattel’s most notable contributions to international law was refining the idea that states should be understood as moral persons into a doctrine of free and independent statehood. This is taken by some as helping to solidify an idea of sovereignty as non-interference. For this reason, when sovereign independence is taken as a necessary and sufficient quality of states, and when statehood is taken as an inviolable boundary, the innovation is often laid at Vattel’s doorstep. Zurbuchen (2010), for instance, argues his work narrowed the field of acceptable rationales for intervention, and expanded the right of states to non-interference. Beaulac (2003) argues *The Law of Nations* transformed the traditionally internal focus on interests into an outward bulwark against intervention, ushering in “a new reality, that of the *exclusivity of authority* without” (p. 247). Vattel was not the only thinker in the period building liberal principles into new modes of social philosophy, but he is identified as a central figure in rendering them into international law (Straumann and Kingsbury, 2010). By substituting interest-driven commercial relations for universal rights and cosmopolitan sociability, his work is cited as a primary driver in causing states to become “closed and interested entities that confront one another as self-sufficient wholes” (Sanahuja, 2017: 152).

The concern is that by reifying the inviolability of states, Vattel’s work underwrote an increasingly rigid and maladaptive system. Since the idea was preferentially applied to European states rather than colonial dependencies, it become associated with a self-serving mode of Europeanism that shapes international law to this day (Koskenniemi, 2020; Rech, 2013). Seen in this light Vattel’s personhood of the state anticipates problems later identified with liberal atomism: the separateness it supposes is artificial, normatively inert, and anti-social. Worse still it supplied moral cover for exploitative internationalism. Tuck (1999), for example, ranks Vattel alongside Locke as exemplars of a kind of liberalism that entailed a “willingness to envision international adventurism and exploitation” (p. 195).

In other words, when Kant listed him among the “sorry comforters” of mankind who promised humane internationalism while selling out its potential, the Kantian shade stuck (Hunter, 2013a). But Vattel’s work is pivotal primarily because it spanned the gap between waning natural law doctrine and an emergent liberal order, hybridizing both into a complex mélange. If Vattel is read in a manner that takes his “free and independent” criteria as straightforward hallmarks of a now familiar liberal credo, something valuable
in his account may be lost. And if he is too quickly assigned among the usual suspects of Eurocentric internationalism, folded into the “constitutive master-narrative of the international legal project” as a primarily liberal exercise (Orford and Hoffmann, 2016: 12), the opportunity to explore a distinct voice within that tradition may be wasted. For this reason, it is important to ask whether the account of Vattelian independence as self-regarding and inviolate sovereignty captures what the author intended when he took personhood as a model for the state.

Sovereign independence is one of two key presumptions of the post-Westphalian state system, the other being the expectation that states are driven by self-interest. Although they have been transmitted through a variety of writers and thinkers, these twin principles of independence and interest are prominently identified with the personhood idea of the state put forward in The Law of Nations. The Westphalian legacy has come in for considerable criticism in recent years, with much of the debate taking the form of an historical stock-taking driven by a concern to affirm the foundations of international law, and by an equally powerful desire to deconstruct and disrupt them (Kemmerer, 2015). This places figures like Vattel in the crosshairs of a larger conceptual debate. Critics argue that by sourcing its normative authority in European and imperialist experience, today’s international order rests on a “congratulatory progressive narrative” with a transparently self-serving bias (Arvidsson and Bak McKenna, 2020: 40; de la Rasilla del Moral, 2015). Others argue the effort to assign Vattel among the villains of international theory obscures more than it reveals, because the closure around state interests that Vattel proscribes is never complete (Hunter, 2013a; Zurbuchen, 2010).

Vattel cuts a complex figure within these debates because he is central to the narrative, but also complicates it in important ways. He advocated a robust mix of state responsibility and public happiness alongside principles of sovereign freedom and self-preservation, creating a framework that accommodates both independence and intervention. He railed against slavery and warmongering accommodated by older modes of legal pluralism, claiming that wars of adventurism or aggrandizement express neither rights nor justice (Vattel, 1844: 304); but he assigned milder punishments to European offenders (Rech, 2013). He insists the horrors of war must be avoided, yet devotes an entire section of The Law of Nations to setting the terms of its justifiable pursuit. And despite being held up as the conceptual father of non-intervention, his writings are still being scoured for nuances that could make the wall of state-sovereignty more porous (Glanville, 2017). When it comes to combating narrowness in international intellectual history then, Vattel’s fluid theorizing may be his most important quality.

Consider for instance the slippery nature of Vattelian argument. The Law of Nations does not build in the structured manner that other classics in theory or law might adopt. Instead, no sooner does Vattel (1844: 183, 193) posit a foundational rule—for example, that states must put their own interests first, or that treaties are sacred and produce perfect duties —than he will qualify the claim by adding states must also be prepared to accept some sacrifices for the wellbeing of others or that if treaty obligations pose a threat to the security of the state they can be omitted. This double-sidedness gives the reader a sense that Vattel is trying to have it both ways. It also means the work can be read for whatever features a reader wants to discover there, contributing to deep disagreements on where he actually stands.
This fluidity can be traced to perhaps the most infuriatingly innovative element in his work. It rests on a “bi-polar” system of law that suspends the action of states between two quite different foundational orders (Hunter, 2010: 124). For Vattel, natural law is universal, ideal and necessary. It drives humanity toward sociability and happiness but lacks enforcement beyond nature herself. In contrast voluntary law is created through conventions, treaties and agreements, varies across time and location, and depends on each state’s calculation of interest. Vattel regularly moves between these modes of law—in some cases so rapidly the reader is left with conceptual whiplash. The duality looks like opportunism or a lack of rigor to some (Nardin, 2014), to others it’s a uniquely resourceful form of analysis (Hunter, 2010; Zurbuchen, 2017).

The bifurcated composition of Vattel’s theory has led some interpreters to suggest an unstable compound lies at its heart. Jouannet thinks the problem results from his attempt to hybridize liberal and welfarist ideas, so that leaving out the providential or happiness element in his theory leads to a caricature of his work. Yet she also concludes that liberalism ultimately drove out this element, leaving behind an impoverished structure where the complex anthropology he envisioned becomes egotistical and unhappy. At times Jouannet seems to blame this outcome on Vattel’s own thinking, and at other times on his legacy or interpreters. In the final analysis though she concludes the original formulation is cannibalistic, consuming a critical element of itself as it unfolds (Jouannet, 2012: 62, 128, 273). If Jouannet is correct, then Vattelian theory is self-defeating in a way that ushers in, even licenses, subsequent liberal excess.

Hunter (2011, 2013a) defends Vattelian theory as a uniquely adaptive response to the diplomatic problems of European statehood in the period, and he sees efforts to read either principled consistency or bad-faith hypocrisy into his work as exercises in misrepresentation. Like Jouannet, Hunter finds the defining feature of his work in hybridity, or more precisely, in how the Vattelian doctrine navigates an aporia between divergent moral imperatives. Hunter argues Vattel’s work is best understood as laying down much needed rules of engagement that open a discursive space within pragmatic politics. This specialized space of communication and judgment allows high-politics solutions to be hammered out among sovereign bodies. The project is not doomed to failure, in Hunter’s view, but it was never intended to be especially coherent either (Hunter, 2010, 2013b). Vattel’s constitutive complexity resists theoretical reconstruction, therefore, because it never had much to begin with.

Jouannet and Hunter trace the distinctive features of Vattelian theory to his prioritization of specific desiderata, whether providence or peace. Yet it’s likely that the roots of Vattel’s approach, and the consequent struggle to classify him within the tradition of international law lies deeper still, with his concept of the moral person in state form. Because it’s not Vattel’s pragmatic preference for diplomacy or his ill-destined providential affinities that foreground him as a key figure in the evolution of the modern state. It’s his concept of what it is to be a state in the first place. Jouannet (2016: 111) recognizes the importance of Vattel’s post-patrimonial sovereignty, suggesting there is something new in the composition of states themselves, and not just their specific choice of aims or activities, that marks a turn in international theory more generally.

The concept of states as moral persons began with Pufendorf, who understood the state as a composite of different faculties, primary among them will and understanding.
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Vattel collapsed these faculties together again, but retained the idea that moral personality served to ground state functions (Holland, 2017). The state is a moral person for Vattel because it can be thought of as a collective body with certain kinds of interests, specifically interests in its own happiness, preservation, and self-perfection. Pursuing these ends requires interpreting the world for oneself, making reason and judgment central to the formulation. Holland (2011: 445, 2017: 126) worries that Vattel’s readiness to collapse will and reason together in this manner signals a mode of intellectualism with potentially absolutist implications. So again, the suggestion is that the peculiar composition of Vattel’s theory primes the modern state for failure. But does Holland’s inventory capture the full moral landscape of the Vattelian world? Or might there be a dimension to his work that helps account for its outsized influence without making it culpable for the many ills of internationalism that followed?

In sum, Vattel has been read as a central, if protean, figure in a historical narrative that culminates in the modern international order—an order that prioritizes sovereign independence over mutual aid within a troublingly unbalanced state system. Even sympathetic readers like Jouannet and Holland find in Vattel an unstable project born of an ill-advised union of elements. Hunter argues for the importance of his bipolar theory, but at the cost of conceding its overall incoherence. Attention to the amorphous quality of his theoretical style underscores the need for caution in taking Vattel as the source of any fixed concepts of state, since he considered all operations of state closer to conventions than natural truths. But does that rule out identifying an element—however fluid—that ties together the different dimensions of his theory?

Vattel’s personhood of the state

Vattel’s place in the history of international thought is tied to his personhood idea of the state, so what did he mean to impart via this analogy? He is quite specific about how states differ from individuals. Unlike persons who need others to survive and thrive long term, states have a capacity for complete independence from others of their kind (Vattel, 1844: xi). While the claim is debatable (Eckert, 2015), it does mean the personhood analogy is not grounding the concept of independence, because states and persons are not equal in this regard and the state’s capacity for independence outstrips those of the naked individual in Vattel’s calculations. If it’s not independence that Vattel means to import through the personhood analogy, what about sociability? Sociability is a feature of human wellbeing and while it’s not strictly necessary between states he insists on its benefits for the international system. Personhood does not indicate some capacity for ideal judicial will that seamlessly coordinates all concerned via right reason. Vattel explicitly breaks with his predecessor Wolff on this point, abandoning the concept of a civitas maxima to manage the system (Pitts, 2013). So again, this cannot explain an analogy to persons for whom sociability is natural and essential.

The language of freedom and independence in Vattel’s work tends to cue modern readers to think in terms of liberal ideas. But Vattel’s is a hybrid system, so it’s also necessary to consider natural law ideas of freedom. That law mandates self-perfection
through the harmony of will and reason, and the duty to contribute to mankind’s happiness forms Vattel’s first law of nature. Indeed he calls morality “no more than the art of acquiring happiness” (Vattel, 1844: lx, 430). Persons and states are thus alike in having a duty toward self-improvement; both must identify interests and then protect and advance them. To conduct itself well a nation, “ought to know itself,” and the self-aware, moral person of the state has an understanding and a will in order to deliberate on interests and actions (Vattel, 1844: 8, 13). This capacity, or rather this responsibility, is what makes states akin to persons in Vattel’s theory.

But the interests of nations are “widely different from those of individuals,” and the way national interests are arbitrated cannot mirror the private or personal level since states face a higher burden of judgment as well as more expansive access to resources. Individuals regulate their conduct by “probabilities” which they use to evaluate risk. States must do the same, only better, because it’s possible to expect of states a level of “deliberation and circumspection” beyond the “caprice and blind impetuosity” common among individuals who are swayed by private views or prone to “the illusions of interest and self-love” (Vattel, 1844: xii, 78). While individuals use discretion in their own case, and run risks by their own choice, matters of state demand a higher order of vigilance and “our precaution and foresight cannot be extended too far” (Vattel, 1844: 308–309). This duty to farsightedness justifies a higher level of anticipation than individuals use in their everyday life. In fact, the shared deliberating and acting upon common interests is what ultimately constitutes the state as a moral person (Vattel, 1844: lvii). Accordingly, a sovereign authority may be a moral person but it cannot act as if it were a private moral person. Whatever his personal inclinations, the prince’s actions must be directed toward the advantage of his state and “the general interests of mankind from which it is inseparable” (Vattel, 1844: 275).

Getting our orientation toward interests wrong, therefore, can make or break the possibilities for public happiness. Those who put self-interest first without evaluating the complex demands of the national and international context undermine the greatest resource nature has granted humanity—the society and help of others of their kind. Vattel (1844) warns: “if each man wholly and immediately directs all his thoughts to his own interest, if he does nothing for the sake of other men, the whole human race together will be immersed in the deepest wretchedness” (p. lx). States are nature’s way of providing the higher-level deliberations that individuals struggle to grasp, and for this reason should be less prone to the self-regarding illusions that self-interested thinking can invite.

Thus a balance must constantly be struck between the needs of the state and the larger world in which it subsists. Take the case of property for instance, it is critical to the state’s existence but never an absolute value. Vattel (1844) insists: “as property could not be introduced to the prejudice of the right acquired by every human creature, of not being absolutely deprived of such things as are necessary—no nation can, without good reasons, refuse even a perpetual residence to a man driven from his country” (p. 108). A state cannot, therefore, own a territory if this means the total right to exclude others regardless of circumstance. Because property—a mere convention of political society—collapses before “extreme necessity,” which “revives the primitive communion, the abolition of which ought to deprive no person of the necessities of life” (Vattel, 1844: 178–179). In sum, no one’s happiness can properly be assured at the cost of misery to others.
Ultimately it is the responsibility of the state to decide when these conditions apply. The connection between interests and duty is powerful enough that on occasion it calls for states to “forget ourselves with regard to interests that are not essential” and to make sacrifices that assist others or which are for the general benefit of mankind (Vattel, 1844: 278–279). The trick is, there is a natural ordering to be observed. Individuals must first preserve their own wellbeing to be able to contribute to the wellbeing of others. This might sound like Hobbesian self-interest creeping in, but Vattel’s intention is more like an eighteenth-century version of “put on your own oxygen mask first.” In other words, it’s a judgment call. If aiding another nation will constitute an “essential injury” to the benefactor then the “obligation ceases” (Vattel, 1844: lx). Note that the duty hasn’t been negated or eliminated; only superseded by a higher-order obligation. Vattel’s (1844) insistence that “whatever we owe to ourselves we likewise owe to others” (p. 135) ensures that the dynamic of self-interest remains connected to broader transnational wellbeing. The obligation to mutual aid is never extinguished then, but because the state has assumed its exercise, it must determine how best to meet it.

What constitutes injury via international obligations is, of course, up for debate, and Vattel (1844) maintains it belongs to each state to “form her own judgment” on these questions as each “acknowledges no superior judge” and remains sole arbiter of her own affairs (pp. lxii, 27, 144). He is clear that this is not relativism: there is a right and wrong side in every case and the duties are real—there is just no supra-state means to determine which is which, or to enforce duties owed. Vattel has not applied a rule here, or delimited the rights of state sovereignty: he has assigned a responsibility. But while the locus of calculation remains within the state, the universe of interests considered can, and should, be global in reach.

How can the free and independent personhood of the state come down to a responsibility to determine interests? This is where Vattel’s liminal position in the history of internationalism plays a role. Whereas modern liberalism reads freedom as non-interference, natural law understood freedom as a sphere of discretionary responsibility oriented toward the good (Koskenniemi, 2005: 98–102). There is a continuity here with Pufendorf’s personhood of the state as an expression of the “capacity for rational freedom” (Holland, 2011: 212). Since everyone had a duty to realize the imperatives of natural law, the freedom of princes consisted in determining how to execute these duties. From a natural law perspective then, the freedom and independence of the Vattelian state is not freedom to disengage from the wellbeing of outsiders; it is the responsibility to independently identify what duties and risks the state must undertake. But what happens when identifying the right path with complete certainty proves impossible? Or when different princes, or different people, reach different conclusions on its requirements? For Hobbes, this is the condition of war. Yet whereas lone individuals need to agree on some working form of the good in order to maintain a society, the Vattelian state’s capacity for independence makes agreement desirable but not essential. Which raises a further question; why does the shift to interests signal a special epistemic challenge for statehood? And why is personhood its solution?
The concept of interests

Jouannet points out that the concept of interests is not only fundamental for modern liberalism, it is a “precondition for the law of nations” that traces its origins through Vattel. But it’s a tricky measure that reflects the unstable liberal-welfarist compound that Jouannet (2012: 43, 45, 96) identifies at the origins of that tradition. What makes interests simultaneously influential and troublesome is the continuous need to assess and determine them as circumstances evolve. Vattelian interests are a manifestation of the natural order of things and express the imperatives of natural law, but they do not arrive as a clear-cut directive, and demand an exercise of judgment that puts states in the same position as persons vis-à-vis an unclear future. This task makes judgment central to the Vattelian state.

Vattel understood that interests involve a form of anticipatory thinking, with all the uncertainty that entails. Although frequently presented as part of a hard-nosed, realist calculation based on current affairs, Vattel points out that interests concern probabilities. The term is notable because Vattel was writing in the wake of a conceptual revolution around this idea. Before the seventeenth century “probable” meant something like “esteemed,” (Hacking, 2006: 19), but by the time Vattel was writing, probability had become associated with rational expectation and belief tied to the observed or calculable frequency of an event. Lorraine Daston specifically links the rise of modern probability theory to the operations of law and jurisprudence, because questions around the reliability of evidence or testimony mean that law demands rational decision-making under conditions of uncertainty. The idea that in the absence of certainty practitioners could make do with a reasoned approximation of it contributed to the hope that anticipation could one day become a rational activity. Probability theory promised that “reasonable men were calculable because they calculated.” And because what they calculated was “rational self-interest,” the idea of a “prudent, sober citizen” heralded a new moral science (Daston, 1988: xv, 6, 187).

Daston (1988) believes the shift to probabilistic thinking represents a quintessentially modern turn in reasoning. “Whatever we mean by modernity,” she explains, “is in some way linked with new attitudes towards the control of the future” (p. 164). Interests are embedded in probability insofar as they address “a goal that resides in the ever-receding open horizon of horizontal time.” They have a forward-looking, prospective bent and indicate things to be protected from potential threats or rewards to be claimed. Because they involve “visions of the future,” interests never point in a single infallible direction and remain “subject to dispute” (Engelmann, 2003: 48, 106, 110). At the roots of self-interest, as Hirschman (1977: 125, 1982: 1483) explains, lies the idea of “predictive power,” so that any doctrine of interests implies an “optimistic vision,” that promises certainty in the face of the unknown. This alignment of interests with uncertainty arose with Hobbes, who explained that since the future is a fiction, anyone who talks about future things is engaged in a process of guessing, and the tendency of an individual’s guesses to be thrown off by personal anxieties or delusions is what creates the war of all against all (Hobbes, 1985: 97; Michaelis, 2007). Vattel shares the idea that interests are characterized by uncertainty but believed anticipatory judgment could be reformed in the prudent and sober state.
While individuals can take risks with their future, nations have a higher order of responsibility and the guessing that accompanies national interests requires exacting consideration. This is where some degree of sociability comes in. Vattel explains that nature endowed mankind with two great abilities, reason and speech, because speech supplements reason in important ways. Speech provides humans a means to mutual assistance, and a way to “perfect their reason and knowledge” (Vattel, 1844: viii). It is crucial for Vattel that states communicate, form common customs, make agreements, and generally intertwine their affairs, because if enough people line up behind certain expectations, the collective effect sometimes generates the desired outcome (Merton, 1948: 195).

Yet if states are like people because they must shoulder the burden of judgment involved in securing and advancing interests, they have one feature going for them that individuals do not. They are always already collective, meaning it is within their power to tame the unknown future through norms of behavior that reduce the uncertainty of human affairs. One of Vattel’s early essays responded to Rousseau’s mute and isolationist state of nature by insisting that personhood implied communication, even under the most primitive conditions (Kapossy and Whatmore, 2008: 97–99). When he applied personhood to states therefore, it meant they were “above all communicators,” making it the “general guiding principle” of Vattelian foreign politics (Christov, 2013: 174–176, 181). He requires states maintain “the esteem of other nations,” as “reputation and glory” are among “the most important duties” of a state. These duties are not mere aggrandizement as they bind state actions on occasion (Vattel, 1844: 91, 139, 151). States even have an obligation to publicity when they discover wise maxims or sound laws, so that general wellbeing can be advanced (Vattel, 1844: 133, 137). So powerful is the Vattelian duty to communicate that it persists even in war. Because interests entail an exercise in anticipatory judgment based on evidence or common belief which other states supply or supplement, the moral person of the state remains operationally intertwined with others, even at the worst of times.

The declaratory state

The relationship Vattel sees between communication and the assessment of interests is at its most striking when he addresses the most extreme of international conditions: war. Vattel categorizes war as a terrible experience for a state and its people, something to be avoided at all costs. Yet he recognizes it can be a tool of the state seeking justice, calling it “the offspring of unhappy necessity” while stressing that the remedy is “so grievous” for all concerned that “unequestionably the law of nature allows of it only in the last extremity” (Vattel, 1844: 314). In the face of these concerns Vattel offers a multilayered rationale for the delivery of an international communiqué, a declaration of war, that focuses on reducing first the likelihood and afterwards the duration and intensity of war.

Since there is no international magistrate to arbitrate disputes, and “it is equally possible that either of the parties may have right on his side,” Vattel concludes the moral standing of the two enemies “is the same, while the war lasts.” In this case, the justifications for war are not about proving right and wrong, but about establishing legitimacy as a form of order. That makes the declaration of war a relatively simple document. States
must give “justificatory reasons” and identify motives that explain “the cause which obliges” their resort to arms (Vattel, 1844: 303, 318–319). They then present this declaration to the enemy and, by extension, the world.

However, Vattel muddies this simplicity with repeated reminders that the practice is meant to be as self-reflexive as it is performative. The only proper reason to go to war is in self-defense and the “right of employing force, or making war, belongs to nations no farther than is necessary for their own defence, and for the maintenance of their rights.” Vattel (1844) qualifies even this right, stressing that if an enemy state seeks peace and makes restitution “we are bound to refrain from hostilities” (pp. 302, 315–317), meaning the responsibility for judgment is ongoing. If state interests are no longer served by going to war, we are obliged to change our minds.

Communication is not only a method of justification therefore, it is also a resource for anticipation. Vattel initially outlines the importance of a declaration of war as an instrument for inciting fear in a potential enemy. This is not a Hobbesian fear meant to paralyze the enemy. Rather it operates as a prompt to judgment and creates a temporal break in which to engage in it. The declaration of war gives an adversary “the opportunity of seriously considering his past conduct, and avoiding the horrors of war, by doing justice.” It provides an incentive for the enemy state to “wake up” and consider if their own interests will be served by war. In this way, the declaration is the penultimate step that triggers states to perform a higher order of deliberation. The declaration of war is not an opportunity for an enemy or third party to adjudicate the state’s behavior as wrong, but a communicative imperative that compels the assessment—and reassessment—of interests by all, “for the purpose of bringing [a state] to reason” (Vattel, 1844: 314, 316). The behavior of a state at the initiation of hostilities is therefore a defining feature of the state as a moral person. Those states who engage without a declaration of war disregard a sacred duty owed to their citizens and the wider world. That is the duty of carefully estimating and pursuing the state’s interest and providing the best opportunity for other states to do the same.

More circumspection is expected of states as persons going to war than would be of individuals, reflecting their augmented moral capacities. Through a declaration of war, the state acknowledges their enemy as a moral equal, employing only respectful language in order to preserve “the hopes of a sincere reconciliation” (Vattel, 1844: 319). In this way, Vattel builds on the assumed sociability of states and positions communication as a method for averting or shortening hostilities. The presentation of a declaration of war establishes the equal standing of all parties; and careful language establishes that due regard is to be paid to all throughout hostilities because of the critical importance of maintaining some means of communication even during war.

Beyond the practical benefits of ending war, Vattel ties respectful behavior to the importance of reputation. Even the “least scrupulous sovereign would wish to be thought just, equitable, and a lover of peace” Vattel (1844) insists, because “he is sensible that a contrary reputation might be detrimental” (p. 318). Being perceived as just is an expression of legitimacy, and being open and evenhanded in one’s communication is the best way to secure the good opinion of the global community, underscoring Vattel’s foundational claim that a state can best secure their interests when they take global interests into consideration.
Even states who offer “pretexts” for war in their declaration, as a way “to cover ambitious views or some other vicious motive” are still operating within a communicative order that acknowledges the power of reciprocal global opinion wherein “a flagrant injustice merits the indignation of all mankind.” Vattel (1844) calls these pretexts “a homage which unjust men pay to justice,” suggesting that even an insincere state can be expected to recognize what it owes the world in terms of advising on its actions and justifying its intentions (pp. 304, 317).

The Vattelian declaration of war cannot assure good judgment, or the protection of interests and wellbeing. It cannot even assure sincerity in its adopters. But it does incentivize a good practice of judgment by keeping states talking. All of the details of the declaratory effort hold open a space where judgment can operate, and makes the most of the communicative capacities of states. In this way, while the violence of war makes it disastrous for stable and secure interests, both the effect and practice of a declaration of war ensure enemy states know each other as much as possible. With their feet planted firmly in the nation, but with an eye to worldly affairs, the moral person of the state presents their rationale for war as an offering for global assessment. In a world where all states must arbitrate their own affairs, speech cannot avert all war any more than right reason can. But used wisely, it can draw parties back to their own best judgment.

The declaration of war might seem like an unlikely instrument for expressing the moral personhood of the state through sound judgment and internationalism. But the impact of Vattelian thinking on another famous declaration reinforces the idea that Vattelian interests call for a specialized space of international engagement. While Vattel looms large in the European tradition, his impact is arguably greater in the Americas where it is tied to the birth of a new republic in conditions of conflict that echo his concerns for war and diplomacy (Chetail, 2014: 255). Benjamin Franklin reported Vattel’s book was “continually in the hands” of the members of Congress as they debated independence. Thomas Jefferson and John Adams were especially keen readers, and one study suggests The Law of Nations supplied key language for the American Declaration of Independence (Ossipow and Gerber, 2017).

Nowhere is the alignment with Vattelian theory more evident than in the passages of the American Declaration that address the question of its purpose and audience. Whereas Vattel (1844) specifies that states should, on momentous occasions, be ready to justify their conduct “in the eyes of all mankind” (p. 280), the Declaration attests that “a decent respect to the opinions of mankind” requires states to “declare the causes which impel” historic actions. Even Vattel’s requirement that abuses should be long suffered and all options exhausted before secession is broached are echoed in the Declaration’s claim that “a long train of abuses” was endured with “patient sufferance” until they could no longer be ignored. Indeed, the centerpiece of the document is a list of grievances that portrays the colonies as victims of escalating abuse, showing that the original purpose of the document was to justify American actions in the eyes of the world.

Faced with the need to establish their new republic on the world stage, Vattel’s American readers concluded a particular kind of speech was a distinctive hallmark of states. There’s no such thing as a declaration of independence in Vattel’s work, but his specifications for a declaration of war say that the most consequential international actions demand announcement and justification in precisely the form the American
Declaration adopts. Anything less and the respective state tumbles from free and equal moral personality into a general enemy of mankind. Meaning the global community forms a critical audience before which statehood is performed. If upstanding states are those which telegraph their intentions and justify their actions, submitting themselves to “a kind of peer review of the opinion of nations” (Carty, 2011: 204), then states are moral persons not only because they possess will and reason, but because they talk about their plans and share their reasoning.

But states engage in a specialized kind of communication, one with advisory or even cautionary qualities that speak to shared fate. Allen thinks the American Declaration is more than a diplomatic instrument, it also works on people’s expectations. By sensitizing Americans to the appearance of tyranny, she says, the document produces “good anticipators” (Allen, 2014: 230). The list of grievances in the Declaration reflects the ongoing responsibility to identify, weigh, and evaluate the actions that best protect and advance common interests, and that responsibility is not limited to the document’s American audience, or even to the founding era. Everyone impacted by the actions the Declaration defends find themselves drafted into the work of anticipation and judgment it demands. If Allen is right, then the declaratory task that Vattel mandates is not just an accessory to personhood; it expresses a central component of it.

International interests

Vattel warns that isolationism is incompatible with peace and security because it requires states to act without knowing the “disposition” of others. States that scorn internationalism in this manner court peril, he explains, so that he who “thinks he is promoting his own interests” often “irretrievably ruins them.” If it is “part of a rational being to terminate differences by rational methods” then Hobbesian insularity is fundamentally unnatural (Vattel, 1844: 281, 283, 429), and while self-love and false passions mislead many, these are interests being failed not served.

It doesn’t take an unstable compound to undo Vattelian theory then, just states that fail to grasp their own best interests. Vattel’s error was not in hybridizing freedom and happiness, and his theory is not lacking a driving principle. But it does place a huge responsibility on states to conduct themselves with wisdom and goodwill in the face of uncertainty. If Vattel erred, it was in giving too much credit to state rationality, or perhaps in overestimating the promise of predictive reasoning, when in reality the adaptive and engaged personality he envisions never fully materialized.

The tendency in internationalist theory to associate Vattel with a rigid concept of statehood has roots in a misapprehension of his thinking on interests. Vattel certainly intended for states to be the only legitimate judge of their own self-interest, and for their judgment to go unmolested by others, but he intended this as a way of exploring shared responsibilities not as a means to silence them. He does not outline a final formula on state behavior or characterize interests as a fixed and objective quality of states, because actions must be continuously reconsidered as contexts change. Flexibility is paramount as neither interests nor independence functions like an infallible absolute in Vattel’s thinking. Instead, by making interests the bedrock of moral personhood, and by establishing communications as a resource to mutual aid and anticipatory reasoning, Vattel
binds states into a mode of judgment that cannot credibly feign obliviousness to the wellbeing of outsiders.

The freedom and independence implied in Vattel’s account is therefore not oriented toward isolationism but describes a sphere of authority for carrying out responsibilities of judgment around interests, especially where those interests concern complex unknowns like acts of war or the birth of states. Interests pose a moral and conceptual challenge for persons and states alike, and Vattel’s thinking reflects the belief that some degree of organized sociability was the best, perhaps only, means to address it. But Vattel intended that a state’s right to judge should operate as a caveat on the greater common aim of peace and public happiness. Treating interests as fixed facts discounts the uncertain and anticipatory nature he identified, and removes the requirement to re-judge, repeatedly and consistently, the duties owed by states, in light of the needs of outsiders and their reported situation.

Conclusion

Strange (1998) once observed that: “About the only positive thing to be said in favor of the study of international relations as a specialized branch of social science is that it strongly persuades its students of the impossibility of foresight when it comes to the behavior of states” (p. 19). Vattel’s work showcases the kind of caution Strange recommends, but this virtue has been lost in translation in the intervening years. He understood that human relations called for adaptability and vigilance and insisted it is “not permitted to be so inflexible” concerning the “uncertain and doubtful questions” of international coexistence (Vattel, 1844: 278). What makes states independent is not having unique and separable national interests in Vattel’s mind, rather it’s having the responsibility to decide where interests lie, and to use speech and reason to determine how they can best be reconciled with a wider world. More than anything else, this makes them akin to moral persons.

In framing states as bodies charged with the reckoning of collective interests, Vattel gave their independence of judgment special weight without disconnecting their fates. States have a duty to mutual aid and to secure peace and commerce through alliances, but these commitments should never interfere with the precious capacity of states to think for themselves. By the same light, doctrines of international order should never license states to neglect interests in their expansive form because this is what validates their existence in the first place. If speaking with and listening to others, no matter the circumstances, is a central duty in that equation, then Vattelian state interests are more complex creatures than liberalist theories suppose. By the same token if the readiness to declare one’s actions, even under difficult circumstances, is a measure of the moral standing of states, as well as an indicator their grasp of interpenetrating interests, then the general success of the declaration of independence as an international instrument stands to Vattel’s credit (Armitage, 2007). On a more troubling note, the relative rarity of declarations of war without a commensurate reduction in military action suggests Vattel’s careful balancing act may not have survived into the present century intact.

Vattel may be in the line of decent for Eurocentric international law, and his natural law arguments may accommodate troublingly self-interested behavior. But like persons
who decide on their own risks and rewards the Vattelian state is still the best positioned to determine its own prospects. While results may vary, no state survives and no people thrives where this capacity for collective judgment is undermined. Hardly surprising then that his work held such appeal for colonial Americans who felt precisely this capacity was threatened by British actions. In the final analysis then, Vattel is a critical figure in international intellectualism because he provides both a rationale for state autonomy and an epistemic fire-break against global hegemony without endorsing isolationism along the way. *The Law of Nations* outlines a structure for internationalism that holds the moral person of the state to the act of evaluating their interests in the broadest sense possible, as a way of moving the world closer to perfection and happiness.

Ultimately though there is something ironic about Vattel being celebrated as the father of modern international law given his insistence that it was not possible to determine or enforce findings of justice in the international realm. Although he crafted a theory that is frustratingly fluid, it is to Vattel’s credit that he embraced this indeterminacy, and articulates the lack of structure that international engagement must navigate. States exist not to be independent sovereign personalities pursing their own whim or will, but to be, like moral persons, locations where the exercise of active and engaged judgment can take place. The object of judgment is collective interests—interests that are primarily, but not exclusively, national. States’ interests are therefore not the marker of some indelible and inviolable boundary but an invitation to discover where these boundaries fall, and when they need to be reimagined.

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### ORCID iD

Catherine Frost [https://orcid.org/0000-0001-7429-8856](https://orcid.org/0000-0001-7429-8856)

### Note

1. It’s worth noting that Vattel’s American readers were Europeans leading a colonial exercise that carries its own troubled legacy to this day. He defended American settlements based on the moral superiority of intensive agriculture, but he also recommended the compensation of Indigenous peoples for their lands (Vattel, 1844: 100), and that sets him apart from the general pack of colonial defenders. He also called slavery a “disgrace to humanity” that prolongs the state of war (Vattel, 1844: 356) so his influence on the new republic was clearly mixed. Without prejudice to the important question of Vattel’s relationship to colonialism then, the focus here is on how his American readers confronted the question of how best to signal newfound statehood on the international stage.

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Author biographies

Catherine Frost is Associate Professor of Political Science at McMaster University, Canada. Her research addresses questions of representation and justice in political thought and history, including issues of political community, collective identity, speech and communications, and new media.
Her work appears in Constellations, The Journal of Political Philosophy, The Review of Politics, The Canadian Journal of Communication, and The Information Society. Her most recent book is a comparative study of declarations of independence entitled Language, Democracy and the Paradox of Constituent Power which appeared with Routledge in 2021. Before entering academia, Frost served as a policy advisor in the Ontario government and a communications advisor in the private sector.

Rebekah K Pullen is a PhD Candidate in International Relations at McMaster University. Her research focuses on the socio-cultural considerations of global conflict and political theories of violence, with her dissertation centered on presentations of decision-maker agency and anticipatory politics concerning nuclear weapons in popular culture. Outside of academia, Pullen has worked with non-profits focused on safe water, global health research, and disarmament advocacy.