

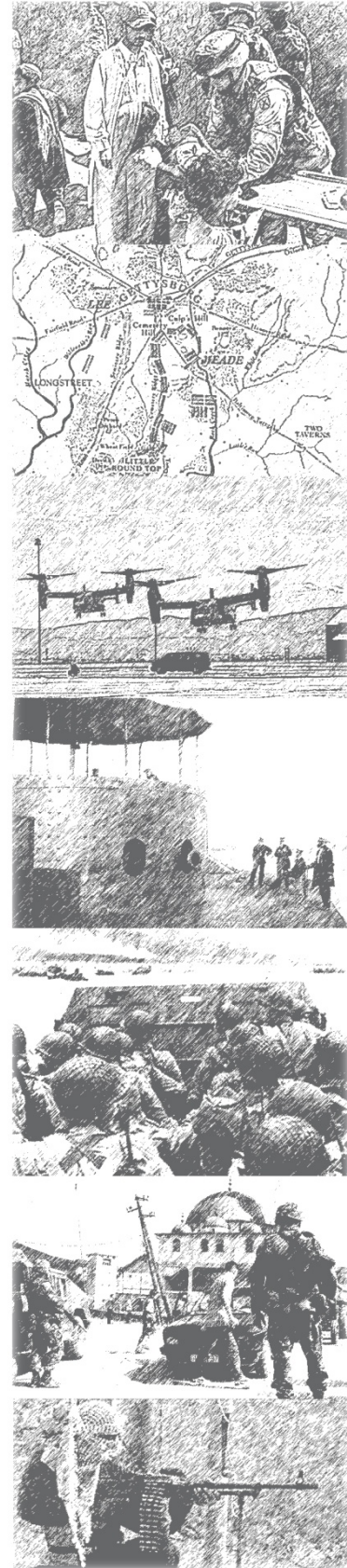
The Involuntary Extinction of States: An Examination of the Destruction of States through the Application of Military Force by Foreign Powers Since the Second World War

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ABSTRACT

Political theorists often consider how states are created, but how they come to be extinguished is considered far less often. The purpose of this paper is to examine under what circumstances a state can be extinguished through the application of military force by another state. Five case studies since World War II are used in this analysis: 1) the successful extinction of Hyderabad by India c. 1948–1949, 2) the successful extinction of the Republic of Vietnam in 1976 following the fall of Saigon in 1975, 3) the attempted destruction of Kuwait by Iraq in 1990, 4) the 2001 invasion of Afghanistan, and 5) the 2003 invasion of Iraq, both led by the United States. Cases 4 and 5 are included because neither state was extinguished despite military defeat and occupation by foreign powers. Why not? Drawing from the case studies, several factors that might contribute to the extinction of a state are identified and explored: the defeat of its conventional military forces, the use of proxy forces in the conflict, the removal of the government, the presence of insurgent forces, the continuation of hostilities, the intentions of the aggressor state, and the recognition of the extinction by the international community.

Keywords: *State, War, International Law, Military Action, State Discontinuity*



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• Introduction

STATES ARE FREQUENTLY STUDIED IN GEOGRAPHY and geopolitics. How the state system came into being, how individual states are created, and the structure of states are often investigated and commented upon (James 1968; East and Prescott 1975; Uibopuu 1975; Johnston 1982; Mann 1997; Barkin and Cronin 1994; Fowler and Bunck 1996; Ringmar 1996; Jackson 1999; James 1999; Axtman 2004; Wendt 2004; White 2004; Crawford 2006; Eudaily and Smith 2008). However, how states can be destroyed is far less frequently studied. What circumstances cause a previously established state to be extinguished? The purpose of this paper is to investigate how states, as nonphysical entities, can be extinguished using military force. Five case studies are examined: 1) the 1948 Indian invasion of Hyderabad that resulted in Hyderabad's extinction and the incorporation of its people and territory into India, 2) the 1976 merger of the Republic of Vietnam with the Democratic Republic of Vietnam after the fall of Saigon in 1975, 3) the 1990 Iraqi invasion of Kuwait, because Kuwait's extinction can be postulated as a counterfactual (i.e., had the invasion not been reversed by Coalition forces, then the state of Kuwait would have been extinguished), 4) the U.S.-led attack on Afghanistan in 2001, and 5) the U.S.-led invasion of Iraq in 2003. The last two are considered precisely because neither Iraq nor Afghanistan was extinguished by these actions. Why not? Why did India's invasion of Hyderabad bring it to an end and why would Iraq's invasion of Kuwait have extinguished Kuwait, but the supposition that U.S.-led actions might end the states of Afghanistan and Iraq seems never to have been entertained?

The structure of this article is as follows. First, states that have been extinguished since the end of World War II and the situations that brought about their extinctions will be briefly considered. Second, factors that seem to influence whether or not a state is extinguished, such as the defeat of its military forces, the use of proxy forces in the conflict, the presence of insurgent forces, the removal of the government, the intentions of the aggressor state, the continuation of hostilities, and the recognition of the extinction by other states will be discussed. It is put forward that states, being nonphysical social entities, are not destroyed directly by military force, but rather by the social actions of other states. However, these actions can only effectively extinguish a state in certain circumstances. These circumstances can be brought about by military action.

• Extinguished States Since World War II

One possible reason state extinction has not drawn more academic attention is that it is a relatively rare phenomenon. Once a state is established, it seems very difficult to eliminate. Despite threats of war and actual military invasions of one state by another, the number of modern states that have come to an *involuntary* end is small. The small number of forcibly extinguished states makes a scientific or statistical analysis of corollaries and causes impossible. Instead, the few relevant incidents are examined as case

studies. Crawford (2006) provides a list of states that have come to an end (either voluntarily or involuntarily) between 1945 and 2005. This list of extinguished states is provided in Table 1.

Table 1. Extinguished States 1945-2005, after Crawford 2006.

Name of State or Entity	Date	Remarks
Hyderabad	c. 1948-1949	Involuntary merger with India
Somaliland	1 July 1960	Voluntary union with the Somali Republic on latter's independence
Tanganyika/Zanzibar	26 April 1964	Voluntary merger in United Republic of Tanganyika and Zanzibar (name changed to Tanzania, 1 November 1964)
Republic of Vietnam	2 July 1976	Merger into Socialist Republic of Vietnam after forcible change of government in April/May 1975
Yemen Arab Republic/People's Democratic Republic of Yemen	26 May 1990	Voluntary merger in Republic of Yemen
German Democratic Republic	3 October 1990	Voluntary union after plebiscite
Socialist Federal Republic of Yugoslavia	Uncertain (not before 20 November 1991)	Involuntary dissolution (despite initial FRY claim to continuity)
Czech and Slovak Federal Republic	1 January 1993	Voluntary dissolution

It might be argued that a few additional entities or situations should be added to the list. However, in each of these cases, this study will defer to Crawford (2006). In other possible cases, either no state was abolished or the abolished entity was not a state to begin with. For example, the Union of Soviet Socialist Republics did not end (despite initial use of language implying its extinction), but rather survives as the Russian Federation. When China invaded Tibet, Tibet was not an independent state, but rather a semiautonomous entity internal to China. Explanations of other situations will not be given here. Rather, see Crawford (2006) for a elucidation on the subject.

Of the states listed in Table 1, three were extinguished involuntarily: Hyderabad, the Republic of Vietnam, and the Socialist Federal Republic of Yugoslavia. Hyderabad was attacked by India and subsequently involuntarily merged with it. The Socialist Republic of Yugoslavia involuntarily dissolved through civil war and secession into several successor states. Initially the Federal Republic of Yugoslavia claimed continuity with the Socialist Federal Republic of Yugoslavia, but it ultimately withdrew that claim in the face of international opposition, not least of which were the objections of the other successor states. Its situation is not included in this analysis because the purpose of this article is not to examine state extinction through civil war and secession.

The legality of the U.S. intervention in Vietnam was based on the existence of two Vietnamese states—the Democratic Republic of Vietnam (North Vietnam, the D.R.V.) and the Republic of Vietnam (South Vietnam, the R.V.N.). When the R.V.N. came under attack by the D.R.V., it requested aid for its defense from the United States consistent with international law and Article 51 of the Charter of the United Nations. For explications regarding the legality of U.S. intervention in Vietnam, see Wright (1966) and Moore (1967). Arguments against the legality of the intervention predominantly revolve around the existence of a single Vietnam, meaning that the conflict between the two governments was a civil war—an internal affair of Vietnam—not an international conflict, and thus there would be no legal basis for intervention by a foreign power. For the argument against the legality of U.S. action, see Standard (1966). Given that there were two Vietnams, the R.V.N. was extinguished after its merger with the D.R.V. following the fall of Saigon and the forcible change of government.

The Hyderabad situation and the fall of the R.V.N. may be the only instances in modern international law where one state has brought military force to bear against another and caused its extinction. In a counterfactual analysis, one can posit that had Coalition forces not expelled the Iraqi military from Kuwait in 1991, the state of Kuwait would have suffered a similar fate at the hands of the Iraqis. However, this did not happen. Coalition forces ejected the Iraqi occupiers and the existence of the state of Kuwait continued without interruption. This contrasts with the 2001 situation in Afghanistan and the 2003 situation in Iraq. In both of these cases, the armed forces of a state had been defeated, its territory occupied, and the governments removed and replaced with provisional authorities at the behest of the victors. Yet in neither of these instances was the occupied state extinguished. Furthermore, the possibility that the defeated states had ceased to exist seems not to have even been entertained by the international community.

Thus, it might seem that invasions and occupations of foreign states can either be conducted in such a way as to extinguish the defeated state, or conducted in a way such that the continued existence of the defeated state is not in question. Instead, perhaps only its government is removed and a new one installed. The Indian invasion of Hyderabad, the North Vietnamese invasion of the R.V.N., and the Iraqi invasion of Kuwait seem to be instances of the former situation, whereas the U.S.-led invasions of Afghanistan and Iraq seem to have been conducted in the manner of the latter. The remainder of this article will examine factors that could explain the material differences between the Indian invasion of Hyderabad and the Iraqi invasion of Kuwait and the U.S.-led invasions of Afghanistan and Iraq.

• Possible Factors Contributing To the Extinction of States

A number of factors that possibly contribute the continued existence or extinction of a state confronting military action will be examined in turn.

Defeat of Conventional Military Forces

In each case study, the conventional military forces of the besieged state were defeated. The Indian military routed Hyderabad's army. The R.V.N. was unable to repulse the Ho Chi Minh campaign. Iraq had little problem defeating Kuwait's army in 1990. The U.S.-led attack on Afghanistan handily defeated the Taliban's armed forces, and they retreated from the cities into the mountains. Iraq's conventional army was defeated in the 2003 invasion and it melted away.

Fowler and Bunck (1996) take an interesting approach to the military defeat of Hyderabad. They seem to disagree with Hyderabad's statehood and place great emphasis on a state's ability to assert *de*

facto control of its territory and *de facto* independence from other states. They use the Hyderabad situation to illustrate their point. They write, “[F]acing determined opposition by India, Hyderabad proved wholly unable to assert its purported independence in practice. The state was unable to make a credible claim to *de facto* external independence and, with the Indian invasion, domestic supremacy within the boundaries of Hyderabad passed from the Nizam to the Indian authorities” (Fowler and Bunck 1996, 391). However, this principle was certainly not applied in the case of Kuwait, which also proved unable to assert its purported independence in practice when faced Iraq’s military might. It continued to exist despite its *de facto* loss of independence. There are many states that might not possess the military capabilities to repel an invasion by a neighboring state, but the situation seems clear that extinction of a state does not occur simply as the result of its military defeat. Since Fowler and Bunck’s (1996) analysis takes place in the context of denying the statehood of Hyderabad, it might be that a decisive application of force from a foreign power might stop an entity from developing statehood by demonstrating its lack of *de facto* independence. However, see Eagleton (1950) for an analysis of Hyderabad’s conflict with India, the inaction of the Security Council, and an argument for Hyderabad’s statehood.

In Hyderabad’s case, some might point to its relatively brief existence as a states a factor in whether or not military action by another state could bring it to an end. Perhaps states that have not existed for an extended period are more vulnerable to extinction by foreign military action. However, this view does not seem to have legal foundation. Hyderabad had a much greater historic claim to continuity than did the newly formed India. Also, given that the states of India and Hyderabad declared their independent existence on the same day; neither had existed in the capacity of an independent state longer than the other had. Thus, it is not clear why the declaration of independence made by Hyderabad should be any less valid or effective than the one made by India.

In the cases of Hyderabad, the Republic of Vietnam, and Kuwait, the defeat of their conventional armed forces played a major role in their extinction (or potential extinction). Certainly, had the Hyderabad military routed the Indians, had the R.V.N. stopped the Ho Chi Minh campaign cold, or had the Kuwaiti military crushed the Iraqi army as it crossed into Kuwait, questions regarding the continuation or extinction of these states would be resolved. Of course, *limited* defeat of a state’s conventional military forces may not be sufficient to bring about a situation where the state could be extinguished, but neither does it appear that military defeat alone is sufficient to extinguish a state.

Use of Proxy Forces

During the 2001 invasion of Afghanistan, the U.S. and its allies chose not to conduct a traditional invasion, but rather to rely on forces already in theater: those of anti-Taliban Afghan warlords in the north of Afghanistan, known as the Northern Alliance. The U.S. augmented Northern Alliance forces with military advisors, CIA operatives, and air support. Even though the attack on Afghanistan began 7 October 2001 with air bombardment, the first U.S. ground forces (2,500 Marines) did not arrive in the country until late November (Tanner, 2009). The Northern Alliance’s irregular infantry waged the bulk of the war. Of course, thousands of NATO soldiers arrived in Afghanistan later for support, stabilization, and counter-insurgency operations.

In situations such this, where the foreign power does not directly engage its own forces but rather uses indigenous forces already in the theater to wage the war, the foreign power may be less able to assert the extinction of the defeated state effectively, or perhaps be unable to assert its extinction at all. In the case of Afghanistan, had the Northern Alliance mounted an independent offensive to wrest power from

the Taliban, the war would likely have been an internal matter and the continued existence of the state of Afghanistan would not likely be in question. When an outside power supports the indigenous forces with airpower and special forces operations, the character of the conflict with regard to the preservation or extinction of the state may not change dramatically, and, the chance that the government established by indigenous forces would be of puppet character may be reduced. However, if one of the first actions of that government were to merge the state with the foreign power that supplied the military capability to the indigenous combatants, the international community may look upon the incident with greater scrutiny.

A foreign state's intervention into another state's civil war is illegal, and civil wars seem less likely to bring about the extinction of a state, even in the cases of socialist revolutions, which at times have been asserted (in theory) to bring about a change of state personality, but have not done so in fact (Crawford 2006). As a result of a civil war, some entities may break off from the existing state and form their own state, but such a situation does not necessarily extinguish a state. The civil war and break-up of Yugoslavia seems to be the lone example of extinction of a state through civil war since World War II. A legal distinction is drawn between using indigenous forces as proxies for the purposes of fighting an international conflict, and unlawful interference in a civil war by supplying or supporting one faction or another, especially for the purpose of using those forces for one's own ends in the civil war.

Removal of Government

The continuation of effective government seems to be an important factor in whether or not the state continues to exist. Having no government is not—by itself—sufficient to extinguish a state, but in combination with other factors (such as the defeat of the state's conventional forces, and/or occupation of its territory by a foreign power) it might strongly militate against the continued existence of the state. A government does not necessarily have to remain in its seat of power or even within the territory of its state. The existence of a government in exile may be an important consideration favoring the continuation of a state.

India did not unilaterally remove the government of Hyderabad. The Nizam acquiesced to the presence of the Indian forces and later gave ceremonial approval of Hyderabad's merger with India. However, he may well have been cooperating under duress, which, in combination with the Indian invasion, could have nullified any agreements favorable to India made at the time. Had the Nizam and his government been able to escape Hyderabad (a difficult task given its geographic situation in the center of India), the establishment of a government in exile might have been a major factor in the continuity of Hyderabad. This might especially be the case since the cablegram sent to the Security Council withdrawing the complaint against India and revoking the accreditation of the Hyderabad delegation might never have been sent. The presence of the Nizam at the Security Council might have even galvanized that body to take action instead of letting the issue disappear from its agenda.

The R.V.N. government did not escape into exile after the fall of Saigon. The government was dissolved and the Provisional Revolution Government assumed control. The Vietnam situation may be an example of a circumstance where, even if the R.V.N. government had managed to escape to a sympathetic state and operated in exile, the extinction of the R.V.N. might still have been difficult to contest effectively.

The Kuwaiti royal family was able to escape to Saudi Arabia in the face of the Iraqi invasion and maintain a government in exile. If Saddam Hussein had succeeded in capturing or killing the Kuwaiti royal family, preventing any government in exile from forming, the destruction of the state of Kuwait and

the integration of its people and territory into Iraq might have been more readily accepted. It might have been that other political factors (such as the Kuwaiti and Saudi Arabian oil fields) would still have precipitated the forcible removal of Iraqi forces from Kuwait, even if another government had to be formed. The (even forcible) dissolution of one government and formation of another does not affect the continuity of a state. The state of Kuwait could have survived the Iraqi invasion, the destruction of its government, the expulsion of the Iraqis, and the establishment of a new government.

The Kuwaiti situation also raises the distinction between a government's effective control of its territory and population, and its ability to be an effective governing authority in other matters regarding its state. The Kuwaiti government had clearly lost the capability to govern its territory and people—they were in the hands of Saddam Hussein. Nevertheless, the Kuwaiti government had not lost the capability to direct a large number of other functions from many locations around the world, such as Great Britain, Egypt, and Saudi Arabia. After the invasion, Kuwaiti financial assets were electronically frozen, and the Kuwaitis were able to continue administering their financial empire out of London. They even set up a temporary headquarters for their airline in Cairo. The Kuwaiti government in exile operated out of a Saudi Arabian hotel, Kuwaiti embassies around the world remained open, and Kuwaiti diplomats retained their accreditation (Sciolino 1991). Kuwait was able to maintain its international presence through modern technology. Decentralization through technology may make it increasingly difficult for an aggressor state to easily and successfully eliminate the government of another state. Electronic information technology may allow a government to maintain its administrative capabilities even if their central headquarters (such as a capital city) are seized.

In the case of the Afghan war, even though the Taliban government abandoned the cities in the face of the advance of allied warlords supported by NATO, they did not establish a government in exile. They moved into difficult terrain where they could survive and contest ownership of the countryside. However, since the state of Afghanistan was not eliminated in any event, had the Taliban government established an effective government in exile in a sympathetic state, the situation with regard to the existence of Afghanistan would not have changed. However, as a counterfactual, one can consider if, had the U.S.-led action intended to destroy the state of Afghanistan, would a Taliban government in exile have been sufficient to contest Afghanistan's elimination?

There was also no Iraqi government in exile following the 2003 invasion of Iraq. The government dissolved, senior leaders were captured or killed, including Saddam Hussein who was captured, put on trial, and ultimately executed. There was no exiled government claiming continuity with the regime of Saddam Hussein.

The sanctions on Iraq in place prior to the 2003 invasion provide evidence of the continued existence of the state of Iraq despite defeat of the state's conventional military forces and the elimination of its government. If the Coalition actions had caused the destruction of the state of Iraq and a new state to come into existence, there would have been no reason to lift the sanctions—the entity to which they had applied simply would no longer have existed. Likewise, it seems clear that the sanctions were not against the regime of Saddam Hussein. That government clearly came to end and, again, there would have been no reason to lift them. The sanctions would have applied to a nonexistent entity. Rather, it seems the sanctions applied to the state of Iraq, which existed under the government of Saddam Hussein, endured the Coalition military action, and continued to exist following the end of major combat operations and the occupation force's adoption of a peacemaking role.

Interestingly, members of the Security Council asserted that they would oppose lifting the sanctions against the state of Iraq, not because Iraq was acting in a way that warranted the continuation of the sanctions, but rather as a way to attempt to change the policy of the United States (Cordesman 2003). If the Security Council had chosen not to repeal the sanctions against the state of Iraq until the United States had changed its policies, could the Iraqis, in an attempt to escape the sanctions, simply have declared the state of Iraq abolished, and then formed a new one? This would probably not have been permitted. Even though states can be extinguished voluntarily, there seems to be more to state continuity or discontinuity than *simply* asserting that state of affairs. For instance, the Federal Republic of Yugoslavia initially asserted continuity with the Socialist Federal Republic of Yugoslavia. Nevertheless, the Socialist Federal Republic of Yugoslavia went extinct and continuity with the Republic of Yugoslavia was not achieved. Asserted state extinction, especially for the purposes of evading international obligations or penalties, may be equally ineffective.

Presence of insurgent forces/continuation of hostilities

The continuation of hostilities plays a major role in whether or not a state continues to exist. The *de facto* situation on the ground notwithstanding, international law postpones judgment on matters such as the continuation or extinction of states until the conflict has ended. The presence of insurgent forces may prolong the conflict, especially if a displaced government or a government in exile is at least nominally directing those insurgents. Judgment on the continuation or extinction of the state in question may be postponed for an indefinite time, regardless of the *de facto* situation. However, recognition of a particular invasion and annexation situation “*may seem politically more realistic where the annexed State is not represented by any government-in-exile or insurgent movement*” (Crawford 2006, 691). Continuing insurgent activity may be an important factor in the *political* recognition of a situation, in addition to preventing particular *legal* situations from arising.

In massive and protracted military conflicts, exactly “which conflict,” or subset thereof, is continuing may require some consideration. For example, while the insurgent forces of one state may be defeated and hostilities may end in a particular theatre, the relevant conflict may be the war as a whole. This seems to be the precedent established in World War II, where regardless of the continuation of hostilities in any particular area, the conclusion of the entire war was used to reverse all German conquests and annexations.

The Intentions of the Aggressor State

In the realm of social entities and social ontology, intentions and intentionality can often play a significant role in the creation or destruction of entities or the realization of situations. This seems to be the case in the destruction of states as well. The state of India intended for the state of Hyderabad to be extinguished and its population and territory integrated with India's own, and it was successful in this regard. Likewise, the state of Iraq did intend for the state of Kuwait to be extinguished and its population and territory integrated with its own. Intention alone, of course, hardly matters, and in Iraq's case the intention plus the invasion and occupation did not bring about the objective, presumably because, before the state of Kuwait ceased to exist, the Iraqi invasion was reversed by other powers. There seems to have been no intention by the United States, or the broader allied states in the Afghan and Iraqi operations, to bring about the extinction of either the state of Afghanistan or the state of Iraq.

Beyond mere intention, however, the extinction of a state seems to require an intentional and explicit *social action*. This might be accomplished either through a unilateral annexation by the aggressor state or

through an action by the government of the defeated state. Exactly these kinds of social actions occurred with India and Hyderabad and the D.R.V. and R.V.N., as well as with Iraq and Kuwait. The Iraqi social action that was intended to extinguish Kuwait, however, was ineffective. The United States and its allies took no social action of annexation or extinction in either the Afghani or the Iraqi situations. To bring about the extinction of another state, it may be *necessary* that such a social action be undertaken, declaring the other state extinguished in some way (such as through annexation), but it is not *sufficient*. Performing the social action in the correct context is required, and this context may be brought about by the military defeat of the other state, the removal of its government, and perhaps even the no objection of other powers before the extinction becomes a *fait accompli*.

It can also be considered whether or not it is possible to *accidentally* or *unintentionally* bring about the extinction of a state. For instance, would it have been possible for the United States, despite its intentions, to suddenly be faced with the reality that it had accidentally extinguished the state of Iraq or Afghanistan? If the extinction of a state requires some form of intentional declaration, then it would seem unlikely that a state would be accidentally extinguished since it is doubtful that a state would accidentally issue a (valid) declaration of the extinction of another state. Furthermore, if intending to extinguish the state were an important part of bringing about its extinction, then that would seem to rule out accidental acts of extinction completely. However, this should be distinguished from situations where the extinction of a state came about as an unintended consequence of some action. For example, if events had gone differently in the Iraq War that began in 2003, the extinction of Iraq and the creation of two or more new states might have been brought about even if that had not been part of the original intention of the United States and the other coalition partners. If, for example, the Kurds declared independence and established a new state, and something similar happened in other parts of Iraq, that would still have come about through intentional actions of the relevant parties, even if the United States had not intended for it to happen. It would not have “just accidentally” happened, even if it were the unintended consequences of the invasion.

In all of the cases examined here, the aggressor state attempts to extinguish another through a merger or annexation. There is no example of a situation where one state has brought military force to bear against another simply for the purposes of extinguishing the state and then creating a new one. Such a situation might never arise, since it is unclear exactly what advantage doing so would bring to the aggressor state.

In some cases, the aggressor may take the annexation action unilaterally, such as was the case with Iraq and Kuwait. However, because “*Changes brought about by a unilateral use of force are ... no longer entitled to legal recognition,*” (Kahn 1993, 428) an alternative strategy may be for the aggressor state to cloak the destruction of the defeated state in the supposed agreement of the defeated government – either by compelling the agreement of the existing government (as was the case with Hyderabad), or by installing an opposition government (as was the case in Vietnam).

In some situations, there may be no distinction between a unilateral annexation on the part of the aggressor state and an act of a government installed by the aggressor that merges the defeated state with the invading state. This is especially the case when the aggressor state establishes a puppet government in the defeated state. The capacity for a puppet government to exercise legal authority is very limited, and a “*request for annexation or intervention made by the puppet government of an admitted State is without international validity, as with the Baltic States annexed in 1940 by the Soviet Union. Neither can a cession of territory by such a government bind the State*” (Crawford 2006, 80). Furthermore, “*any acts of*

the puppet entity must be regarded as void, as far as concerns the previously effective State, except to the extent that they can be regarded as acts of the belligerent occupant itself, or unless and until ratified by an effective government of the State concerned" (Crawford 2006, 81). The practice of compelling an existing government to recognize or "request" the annexation would also seem to carry no legal weight. In the case of Hyderabad, the Security Council considered being under duress to potentially legally nullify the acts of the Nizam, although it ultimately decided to take no action.

It should be noted, however, that international law does distinguish between puppet governments and occupation governments regulated within the framework of Chapter VII of the Charter of the United Nations. Occupation governments so regulated, especially when there is no competing government in exile, may be authorized to act on behalf of the state. The Coalition Provisional Authority and Governing Council of Iraq is a case in point (Crawford 2006).

When invading and annexing Kuwait, Saddam Hussein might have thought that if Iraqi forces acted quickly and decisively, the international community would simply accept the facts on the ground, the extinction of Kuwait, and the annexation of the Kuwaiti people and territory into Iraq. The Hyderabad situation seems to be a precedent for exactly that circumstance. Eagleton (1950, 301) makes this realization at the conclusion of his analysis of the Hyderabad situation:

"Practically speaking, the case of Hyderabad is finished. Under the new Indian Constitution Hyderabad has been incorporated into the state of India, and the Nizam submissively participated in the ceremony by which it was done. The item remains upon the agenda of the Security Council, but there is no indication of interest in that body. States could refuse to recognize as legal this change brought about by the use of force contrary to treaty; the Security Council could still take action, though it would be difficult to undo a fait accompli."

However, Saddam Hussein miscalculated the resolve of the international community to reverse the Iraqi invasion and preserve the existence of the state of Kuwait. The Vietnam situation seems to be distinct since it was not the case that other international powers did not try to intervene, but rather that the United States ultimately withdrew, seemingly resigned to accept the outcome of the conflict.

Recognition of the Extinction By Other States

The constitutive theory of the creation of states asserts that the recognition of a state by other states is what brings a state into existence for the first time. In contrast, the declarative theory asserts that the recognition of other states is merely a political act recognizing an already existing state. One might consider whether or not there could be similar competing theories for how a state comes to an end. For example, as a corollary to the constitutive theory of state creation, there could be a theory by which a state is only extinguished by the recognition of the extinction by other states. The alternative theory would not require there to be any particular act of recognition that a state has ceased to exist, but such acts of recognition would be political acts recognizing an independently existing state of affairs.

If the constitutive theory is denied for state creation (as it often is in modern geopolitical scholarship), then what argument could be made that state extinction occurs due to recognition? Many of the arguments against the constitutive theory of state creation would also seem to hold against a theory positing states are extinguished through acts of recognition, and a number of important questions would need to be addressed. For example, is there a duty to recognize state extinction? How many states must recognize the extinction of a state before it is extinguished? If quantity is not relevant, how influential or

powerful must the recognizing states be in order for the recognition to extinguish a state? Can these acts of recognition of extinction come unilaterally or must other conditions (such as those outlined in this article) exist? Does the recognition of the aggressor state have any influence, or must this recognition come from third parties to the conflict? In cases of (attempted) voluntary extinction, can the voluntary extinction fail if third party states choose not to recognize it?

For those who would reject the constitutive theory of statehood on the basis that it is an anomaly in the international legal system for states to be brought into existence by recognition when other legal situations are not brought about just because others recognize them as such, one would be faced with the same anomaly if one were to hold that states are extinguished by the recognition of other states. Instead, the extinction equivalent of the declaratory theory might be preferred. Any recognition of the extinction of a state would only be a political act that recognizes already existing states of affairs. Some situations (again, perhaps involving the factors outlined here) can objectively bring about the extinction of a state independently of whether other states recognize its extinction or not. This might be important if an offending state simply refused to recognize that their actions have brought about the extinction of another state in order to avoid legal repercussions. Instead of reducing the debate to whether or not one side or the other recognizes the extinction of a state, there would be an objective way of determining whether or not a state had been extinguished. For these reasons and others, a theory equivalent to the constitutive theory of state creation for the extinction of states is rejected here. The recognition of other states is not required to extinguish a state.

• Conclusions and Further Research

This paper has been an investigation into how the destruction of states, as nonphysical entities, can be brought about by the military action of a foreign state. Considering the legal prohibitions on the use of force by one state against another, the legal situation might be thought to be clear—a state *cannot* be extinguished by foreign invasion. However, this is not the case. The extinction of Hyderabad and the Republic of Vietnam are cases in point, as is the postulation of Kuwait's extinction had the Iraqi invasion not been reversed. While the extinction of states through military force is *illegal*, it is still *legally possible*. The practical reality can be made to fit ideals of international law more easily if one asserts that Hyderabad was not a state and the Vietnam War was a civil war (meaning the Republic of Vietnam and the Democratic Republic of Vietnam never existed as two separate states). However, doing so, especially just for the purpose of eliminating anomalous incidents in world politics, seems suspect.

It seems clear that, regardless of legality, simply the defeat of a state's conventional military forces, and possibly even the further removal of its government, is not sufficient to extinguish a state. Importantly, a social action, such as an act of annexation, must take place either unilaterally by the aggressor state or through acquiescence of the defeated state, or a (likely dubious) request by the defeated state. There were no such actions in the U.S.-led invasions in Afghanistan and Iraq. A unilateral pronouncement of this sort by one state regarding another, absent the correct context, appears to have no effect. Successful military invasion seems to create the appropriate context where such a pronouncement *could* be effective. The more of the factors discussed above that are present, the more likely this context may exist.

It is important to note that, despite the academic and legal attention paid to the criteria that bring a new state into being (very roughly a permanent population, a defined territory, a government, and independence), the mere removal of one or more of the qualifications that brought that state into being is not sufficient to end the existence of the state. The emergent legal entity is much more durable than that.

Whether or not an illegal conquest and annexation will bring about the extinction of a state also seems to rest in the cessation of the conflict and whether or not other powers are willing to reverse a *fait accompli* or prevent a situation from becoming a *fait accompli* in the first place. But if the situation is allowed to stand, it appears that the situation becomes a legal one. For instance, today, it does not appear that Hyderabad is any less an integral legal part of India than any other part not brought under its control by military action.

In further research, more historic situations can be analyzed. This analysis has constrained itself to the period following World War II. The situations brought about because of that war were formative of many of the principles upon which the cases examined in this article were based (for example, the non-extinction of Ethiopia, Austria, Poland, and Czechoslovakia despite their invasion, occupation, and annexation, and their ability to be reconstituted following the war). Prior to World War II, there are a number of possible state extinctions and annexations by other powers, such as the Papal States, Madagascar, the Republic of South Africa, and Korea, which could be examined. Furthermore, international law is ever evolving. The Iraqi invasion and annexation of Kuwait has become a core case for a state's survival despite illegal invasion and annexation by a foreign power. If similar situations arise in the future, it will be interesting to see how previous principles of law are applied to them, or how they may establish new precedents. ★

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