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The Politics and History of Responsibility Across Boundaries

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Time and again we are told that in this age of globalization, old walls are crumbling. Money, products, ideas, images, and sometimes people are flowing freely across national borders at an increasing rate. There is some truth to this scenario. But it leaves out something—the construction of new walls that, paradoxically, are what makes these flows possible in the first place. Moving a commodity or idea across old walls from one person's hands directly to another's keeps it out of the hands of uninitiated third parties. This is what these networks allow: movement along narrow channels of people and places directly connected to one another, leaving out those who are not connected. Even when networks form markets, for example, for currency or computer equipment, they remain more or less exclusive clubs of members with technological access or expertise buying and selling across national spaces and time zones.

As networks of exchange expand around the world, all sorts of new walls spring up between the educated and uneducated, the prosperous and poor, the mobile and immobile. These walls may not be as visible as those that the state maintains through, for instance, customs officials. But they can be restrictive and confining, especially to those groups and individuals that are disenfranchised.

That we have both the end of old walls and the making of new ones reflects a basic fact. Social and political life has been shaped by two countervailing tendencies. On one hand, states and markets can extend themselves into an expanding range of places and enter more deeply into the lives of individuals and
groups. On the other hand, states, markets, and the various networks associated with them can be confined within defined limits, lying beyond the reach of places and people's lives.

The simultaneous expansion and confinement of states and markets actually happen frequently. Most famous in the domestic realm is the attempt to limit the power of the state as an agent of well-being and to expand the activities of civil society for the same. In the international realm many humanitarians want to expand the range of responsibilities governments, corporations, and international organizations assume for the well-being of people in developing countries. At the same time, some policymakers want to limit these responsibilities, claiming that they can lead to violations of sovereignty and self-determination or create a ceaseless demand for aid and costly intervention.

Confinement and expansion relate to the question of what sort of responsibility can be established—or avoided—across national boundaries. This article will show that a set of ethical-political issues regarding responsibility are at stake in these two tendencies. Bear in mind that the international system of sovereign states starts from the certainty of the premise that responsibility shall be confined and concentrated within national borders. Attempts to extend responsibility across borders occur today as something exceptional. This might explain why we have trouble thinking through the politics of humanitarian intervention, of military occupation, of governance by multilateral organizations such as UN High Commission on Human Rights, and especially of corporate responsibility. In contrast, nineteenth century imperialists were often clearer about where responsibility lay and what its nature was.

If we want to think seriously about responsibility across boundaries, we need to explore the various ways that confinement operates, considering its political effects. I argue that we cannot assume that responsibility, especially on the part of powerful states and transnational corporations, ought simply to be expanded across boundaries in order to increase human security and well-being around the world. This is neither realistic nor necessarily desirable. Instead, responsibility needs to be confined and defined within what I call “infrastructures of responsibility” that allow actors mutually to recognize in negotiated “social treaties” the benefits of limited but effective obligations toward one another.

**Background: Tradition and History**

Let us begin by considering some examples of expansion and confinement that show how historically important these tendencies have been. First, a great deal of Western political imagination assumes it is in the nature of social forces to expand. North Americans have been particularly inclined to view politics and society in expansionist terms as they settled a rather large continent and reached out
across two oceans to trade and proselytize. Thus Theodore Roosevelt could comfortably exclaim, "The history of the nation is in large part the history of the nation's expansion."1

In Europe as well, expansion has a robust legacy that is not merely a function of the drive for overseas empire, world markets, or larger national territory. T. H. Marshall, for instance, argued that the scope of citizenship rights in Europe kept expanding across the nineteenth and twentieth centuries. Where once it was limited to civil rights, citizenship also came to incorporate political and social rights.2 The proportion of a European country's population that was granted full citizenship also expanded. More recently, social theorists from Jurgen Habermas to Michel Foucault have drawn attention to the expanding range of activities in which twentieth-century states have become directly involved, such as health care and social security, taking over from church, family, and neighborhood. The mirror reflection of this process in the economic realm is the expansion of market relations into new social frontiers as more social services are offered for sale, such as child care and education.3

Whether one believes states, markets, empires, societies, or power itself exhibits "a growth ... to which there is no limit,"4 confinement—not just expansion—also has had a powerful hold our political imaginations. Often confinement develops as a reaction to expansion. In this age of economic globalization, the attempt to limit the effects of international markets on local and national life is familiar to most people. The practice and theory of the state have incorporated a variety of confinements. Consider that American constitutionalism really was an ethic of confinement. Checks and balances, the separation of powers, and the rule of law are all examples of confinements internal to the operation of the state. But so is the attempt to concentrate power at one level of government, such as the presidency, at the expense of another, such as local jurisdictions.

Over the last two decades the confinement of state power and authority has been closely associated with what came to be labeled neoliberalism. Mechanisms of privatization curtailed state functions, leaving it to the private sector to provide services or manage industries. It may be no coincidence that the rise of neoliberalism occurred in the aftermath of the 1970s, when many commentators argued that state activities became overloaded as they expanded into too many areas of people's lives. A state that had expanded beyond its limits, the argument went, could satisfy no one and risked instability in both the developed and developing worlds.5

Neoliberalism is an attempt to put a limit on what the state can do in society. Such limits are nothing new. Sometimes actors in the state itself explicitly lay out a logic of confinement as the Supreme Court did in 1935 when it emphatically claimed that the president had been given power that was "unconfined and vagrant ... not canalized within banks to keep it from overflowing."6
sider also that civil rights mark not just entitlements but also the "limits of interference" of the state in its citizens' lives. From the opposite direction, some original drafters of the U.S. Constitution vigorously sought to confine the influence that private interests could have over governmental affairs.

Additional society-centered forms of confinement besides the networks mentioned above include the enclaves of elites who confine themselves in secure, gated communities—symbolic and real—as well as the tragic ethnic enclaves that are scattered across the Balkans. One could also include zones of international governance, such as refugee camps that are fenced off from their political and social environs.

In developed—typically democratic—countries, groups and individuals can confine themselves in enclaves, clubs, or associations, because they have the rights to do such things. In these cases, public authority functions to provide groups with the legal framework to wall themselves off or form exclusive networks. In developing societies, local communities can also avoid participation in, or interaction with, "public" authority at times. In these cases, something is wrong with the public authority of the state: it might not only be corrupt but be absent from places or areas of life, leaving communities with few choices regarding their relationship to it. The state in this instance is confined, perhaps to small islands of presence across a territory or to the capital city, not as a matter of ideological choice or program but out of necessity and due to a lack of power.

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Like expansion, confinement is not a recent phenomenon. We naturally emphasize the expansionist tendencies of imperialism, but empires have involved some serious confinements, as well. Indirect rule through local political figures often was a "retreat" from more ambitious plans for direct rule. Colonies, particularly early on, were by their nature confined as points of entry for settlers in more expansive, and perhaps hostile, places, such as the coastlines of Africa and North America.

In general, most social and political phenomena have both confining and expansionary dimensions. What is important to the question of responsibility is the mix of the two tendencies, as in the case of expansionary empires that made claims on large masses of land and peoples, but which were relatively confined in their ability to govern them—or in the case of networks that may reach extensively across spaces but which do so through a relatively narrow range of partici-
pants. The point is that these mixes create tensions that shape international politics and the problem of responsibility across boundaries.

Logics of Confinement

How does confinement work? The above examples only indirectly reveal the answer. To get there we should start with some basic distinctions. Social forces such as states or markets can be confined regarding how many people and places they reach—breadth—or how deeply they penetrate into particular areas of life in those places—depth. Over the last decade, for example, leaders in the European Union argued over whether expansion should occur by incorporating new members—breadth—or getting more deeply involved in the governance of social life within the Union—depth.

One also can distinguish forms of confinement based on who is doing the confining. On one hand, some group or political movement can target something besides itself for confinement as when U.S. conservatives advocate privatization. On the other, a group or organization can seek its own confinement as when some organization or group limits its actions in order to prevent harm to others, the classic example being environmental pollution.

The latter we may label “self-confinement” and has a lot to do with the notion that actors can confine their activities as part of a strategy to achieve their larger aims. They can choose to engage or disengage. Strategy is the choice of points force should be applied to, as Lenin has famously claimed. Along these lines, European empire-builders often would target zones of their empires that they believed were worth development and investment, ignoring, as best they could, the rest.

Self-confinement and strategic engagement are two sides of the same coin. They make possible what many believe is the key mode of action across boundaries today, “flexibility,” that is, the capacity to move across social spaces, to change commitments, and to shift investments quickly based on changing conditions. Flexibility merits some of our attention because it raises important issues bearing on transboundary responsibility.

Flexibility was first associated with new investment and corporate strategies—stressing the ability to decentralize activities and move freely around the globe. It recently also has begun to be associated with states. Typically, a state that is flexible is thought to be one that can respond rapidly to changes in the international, especially economic, realm, altering its domestic and foreign policies accordingly. What is interesting about considering states as flexible is that, in contrast to corporations, they are expected to be otherwise. That is, they are expected as public authorities to establish long-lasting commitments, which can change only through complicated political processes. One road to becoming flex-
ible is to privatize and “hollow” out a state by reducing the breadth of activities and responsibilities that it undertakes. This gives a state options regarding the areas it works in, for example, education, health, and the economy; how it does so; and with whom it works, for example, partnerships with the private sector.

Note that acting strategically in this way implies neither that states simply are simply retreating or disempowering themselves nor that they are becoming minimal or purely laissez-faire. A “strategic” state can move out of and back into activities, alliances, or involvements in specific locales within its territory. A recent example is the relationship of the United States to the Internet. From a crucial starting point of nurturing the development of the Internet, the state pulled back. But now it seems to be re-entering this domain to regulate substance and to provide security. Here the United States is a strategic power, making choices and controlling deployments and engagements to some degree, although from the outside it appears simply inconsistent and confused. Strategic states can sometimes produce a large apparatus of disengagement, as we see today in the attempt to dismantle the welfare state through rather extensive programs of “welfare-to-work.”

It need not only be Western states that can enjoy this sort of power. A shift has been observed, for example, in Guatemala, which now can be seen strategically picking the social problems and conflicts it takes on as well as the locales in which it intervenes, whereas in the past it confronted conflicts across its territory. One student of African states notes that outsourcing state functions like security to private actors such as mercenary firms leaves rulers “unconstrained by popular or bureaucratic opinion,” able to “make decisions quickly and reverse course with relatively little encumbrance.”

The key ingredients to strategic engagement and the various dimensions of confinement discussed above are space and time. An organization like a state can make choices about which geographical spaces, a particular town or district, or which social spaces, a domain like education, to operate in—recognizing that there are pressures from creditors or lobbyists. It is exactly because norms of sovereignty, sanctified by the UN, make the boundaries of national territories relatively stable that states no longer fear as much as in the past that strategic retreats inside their own boundaries will create vacuums to be filled by outside invaders. Time matters, for to have such relative choices is to set temporal limits to commitments, opting for temporary engagements over permanent ones.

Strategic engagement and flexible policies seem to be inconsistent with the establishment of longstanding moral commitments to well being that we associate with national and international programs of education, health care, and income redistribution. But this does not mean that ethics and responsibility are edited out of the picture. On the contrary, as I argue in the next section, many decisions or choices have ethical dimensions that are often forgotten. Thus, ethi-
cal problems and questions of responsibility can multiply in the face of the choices associated with strategic engagement in ways that are often conveniently overlooked. Indeed, if it is true that, as one theorist states, no matter what its form “power is always an exercise in applied morals,” then the many strategic decisions that an organization makes under the guise of flexibility force it to confront, many times over, questions of responsibility.

Confinement and Responsibility Across Boundaries

On its face, confinement may seem to be the perfect way to contain responsibility across boundaries. An organization can cut itself off from forces that might otherwise make ethical or political claims on its actions. A transnational corporation can work through local joint ventures partners who shield that corporation from direct exposure to the claims of local communities or governments about pollution, payscales, or access to resources. A state is, of course, in principle a superb confiner since its borders are not only supposed to prevent outside forces from intervening inside, but also to limit state responsibility for social order to the people and places within its national space.

But confinement is one thing, and elimination is another. Every confinement begins with an ethical decision about what is kept out or what is to be confined. This is, of course, a negative exercise, referring to what one will not do or deal with. Nonetheless it is moral choice. That an organization will insert itself in some locale forces it right off to face ethical questions about the nature of its presence in that place. How much will it conform to local laws or take into consideration its impact on local political life? Silence on all these issues is no escape, for not only do the issues remain, but silence itself is a moral choice to confine ethical discourse. Organizations are always making moral arguments about their missions across borders: for corporations it is the pursuit of profit and the efficient use of resources that are used to legitimate transboundary activities. States use values such as security to do the same.

There is an assumption that powerful transnational actors today can choose to be strategic according to their own interests and self-defined missions, as long as they appear to abide by domestic and international law and do not egregiously violate international norms of sovereignty. The choice to engage or disengage based on one’s own self-defined interests has not always been as readily available to powerful actors in the international realm as it seems to be now. In the past, empire drew people and places into common transboundary political frameworks organized around a system of authority anchored at a metropole. In principle, that authority is a responsibility to maintain order within the empire. While, as mentioned above, agents of empire—explorers, armies, consuls, and governors
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could be strategic in their engagement, focusing on the “profitable” and “governable” zones, they nonetheless were operating in a context of collective social purpose called “empire” that carried its own powerful logic and language of responsibility for “order” and “civilization.” Wars within the empire could not be easily ignored someone else’s problem or as an internal affair, as some civil wars were labeled in the 1990s. Today’s international liberal order produces nothing like that sort of authority and collective social purpose.

Indeed, the history of responsibility operating across boundaries is above all the history of empire. Empire is where transboundary responsibility has received its most elaborate development. In this respect, the abandonment of empire in the mid-twentieth century was a process, as one historian put it, of “abdicating responsibility.” Concerned publics, activists, governments, and leaders of international organizations have never fully come to terms with what responsibility means after this abdication. This “coming to terms” has been hindered by the replacement of empires by a universal system of sovereign states, sanctified by the UN, within which responsibility is contained inside national boundaries. Unfortunately, this new universal system developed under the fog of Cold War politics, which placed questions of international responsibility in the context of superpower conflict.

It is hardly surprising that after the Cold War ended we would find a lack of effective norms of responsibility capable of facilitating the ambitious aims of the 1990s—peacekeeping, humanitarian aid, and development—a mismatch tragically realized in places like Rwanda. Nevertheless, the question of responsibility is being rediscovered in powerful ways, thanks mostly to the campaigns of activists working on issues like the environment, human security, and self-determination in places as distant as Mexico and East Timor.

However, we should be clear about the particular context within which claims about international responsibility are made, contested, or avoided. The relative absence both of authoritative international law and of engines of collective social purpose has two important effects. One is the wider flexibility that actors have in choosing strategically their engagements and disengagements with peoples and places. That is, the lack of effective international public authority offers actors like states and corporations room to maneuver, as long as they pay attention to domestic law and international norms when necessary. A second effect is the flip side of the first. In the absence of legally defined responsibilities actors such as transnational activists have room to maneuver in defining the responsibilities of states and corporations and making claims on them through international political campaigns, boycotts, moral suasion, and national courts of law. In other words, while powerful actors like states and corporations can exploit the relatively “open” field of operations in the international realm, they must also accept that little international law confines the potentially expansionary claims of activists and local governments.
Confining these claims is a natural concern of any organization that seeks to operate flexibly, moving in and out of places based on its own perceived best interests. With few firm legal walls defining accountability, the fear emerges on the part of such actors that once the Pandora's box of responsibility is opened, there is no limit to how far and deep claims on them will go. Fear of the "slippery slope" of responsibility has often been voiced by states and corporations. Brent Scowcroft, national security advisor to the Bush administration, justified not intervening in the Liberian civil war in 1990 on the grounds that "[i]t was difficult to see how we could intervene without taking over and pacifying the country with a more or less permanent involvement of U. S. forces." States have the power to define a "national interest" that, in principle, can limit the bite of claims over what and to whom they are responsible. Corporations, in turn, can claim they are only economic actors and are following the dictates of markets when seeking to limit such claims.

However, it should be recognized that unilateral confinements of this sort, while they may temporarily work, are not something that can be ultimately relied on to contain claims. Because an expanding array of claims against organizations can be made in the absence of effective international law, they remain quite vulnerable to political campaigns mounted in both local and global terms. While U.S. corporations were able to avoid disengagement from the apartheid South African economy for many years, once the transnational anti-apartheid movement exploded in the 1980s it became increasingly difficult to do so. Likewise, a Japanese transnational corporation that recently faced an international environmental campaign launched from Mexico has had to rethink its decision to set up operations in the Gulf of Mexico.

One might counter that for every example of this sort, there are numerous instances in which states and corporations successfully avoid these sorts of pressures. However, treating the question of responsibility as something to be avoided is an increasingly risky proposition for corporations and states in the twenty-first century and for two reasons. Where once Cold War politics confined responsibility, the state is now being confronted in an increasingly energetic fashion by a widening set of actors from local NGOs and international activists to national supreme courts. Consider also that today there is an expansive array of issues subject to questions and claims about responsibility, such as environmental and social impact, which were not on political agendas in the past. As long as responsibility remains undefined at the international level, the range of issues that can be subject to claims about responsibility are likely to grow as the array of actors making diverse and distinct claims widens. Both trends make the slope of responsibility that much more steep and slippery.

When organizations like corporations move beyond pure avoidance tactics—such as convenient joint ventures or outright denials of responsibility—they tend to conduct public relations campaigns asserting that they are respon-
sible and conscientious actors, partners with the communities they operate in. They sometimes undertake social programs to prove it. They also mount legal defenses against law suits and try to defuse boycotts. In places like Africa and Central Asia they might buy off government officials or hire their own private security firms to defend against local sabotage or acts of violent resistance.

All of this may be viewed merely as the cost of doing international business. But the notion that such tactics can succeed in confining claims rests on the assumption that claims about corporate responsibility will more or less be the same in the future as they have been in the past. In other words, further expansions of claims about accountability and responsibility are to be discounted, and the possibility that activists learn from one another's campaigns and find new ways to support one another is ignored. If it is the case that we are only at the beginning of an era within which responsibility across boundaries is contested, then corporations will have to think hard about whether the attempt to confine claims through avoidance is the best overall strategy. As we have seen, confinement requires the maintenance of boundaries. If the system of boundary maintenance depends on defensive and evasive tactics, then that leaves room for claimants like activists, governments, and community organizations to define, articulate, and disseminate new concepts of transboundary responsibility without the participation of corporations themselves.

These sorts of expansionary pressures increase incentives for corporations to fashion international regimes in cooperation with states and multilateral organizations like the WTO and the UN. These regimes can operate over the heads of activists and local communities, regulating things like intellectual property rights and environmental practices. Regimes can define and limit, that is, confine, responsibility according to the interests of powerful states and corporations. While the UN effort to forge a new "global compact" between business, NGOs, states, and labor is worthwhile, it is a top-down approach more or less working out of New York, Paris, and Geneva. Although some international NGOs might be brought to the table, especially in areas like the environment, the vast majority of grassroots organizations are excluded for their sheer numbers.17

This tactic of confinement at the global level is a fundamental mistake for all involved. It can provoke even more ambitious forms of activist organization globally, regionally, and locally along the lines we have already seen from the Niger Delta to Seattle.

The alternative is for powerful states and transnational corporations to make a political and social investment in the building of "infrastructures of responsibility" that include rather than exclude and which are anchored and forged in the specific places they operate in rather than in finance capitals like New York. An infrastructure is an underlying foundation, like transport and communication systems, that makes a set of activities possible, like industrial production.
Analogously, an infrastructure of responsibility represents the basic ethical assumptions and concepts that guide and legitimate a category of action.

Of course, as I argued above, there is always some sort of ethical infrastructure associated with transboundary activities. Most famously, transnational corporations do business in countries around the world based on the ethical assumptions that suggest that direct foreign investment produces growth and thus is good for individuals, communities, nations, regions, and the entire global economy. This ethical infrastructure emerged through longstanding habits of thought and practice associated with capitalism. However, because of the relative poverty of existing bodies of norms regarding transboundary responsibility that go beyond the "ethic of growth" we will need to self-consciously build infrastructures rather than rely on tradition. These new infrastructures can be codified, based on negotiation, in "social treaties," formal and informal, signed not simply by states, but by relevant corporations, municipalities, community organizations, local representatives, and international NGOs, that is, actors affected directly by an economic activity, or representing those who are.

How would this work? First off, infrastructures of responsibility need not start by assigning responsibility to—or leveling blame at—any one actor in particular. In the same way that an industrial infrastructure does not assign a specific economic activity to any given organization—it only makes such activity possible—infrastructures of responsibility must begin by indicating the issues and concepts of responsibility that are associated with particular types of action. In this respect, they allow treaty negotiators to define what responsibility is, rather than simply assume what it means. For example, an infrastructure may clearly link forms of industrial production to pollution as a violation of the public good. It can condemn any discernable environmental devastation and insist it is ethically imperative that there is a process of clean-up and prevention. However, it is then up to the relevant parties to a social treaty who monitor the infrastructure to work out who should take on that responsibility or be held accountable. How clean up and prevention are carried out must be worked out by the consortium of actors and representatives involved in the treaty. Perhaps an outside firm would be hired, funded by the industrial corporation creating the pollution. Or perhaps outside international donors would supply funds to local environmental organizations. Social treaties, in effect, give teeth to the rhetoric and promise of partnerships.

The advantage to transboundary organizations of establishing infrastructures of responsibility by treaty is that they would begin to set clear and predictable limits to their responsibility, rather than keep it open-ended, subject to the latest transnational political campaign or lawsuit. This is a confinement, but it is not based on strategic disengagement and avoidance. Thus, it provides incentives to activists and local governments to participate and rechannel their energies into negotiation. International NGOs would gain an opportunity to establish rela-
tions of responsibility and accountability with local communities. Corporations may find that their freedom of movement is expanded in ways that "flexibility" never made possible. Rather than having to fear slippery slopes and dart elusively in and out of engagements, corporations will be able to become more transparent and open about their needs and concerns, they will choose engagement based on the formation of new relationships and opportunities guided and confined by powerful infrastructures of responsibility rather than simply by fear and distrust. It is in their interest because they will recognize that cooperation, ultimately, is always cheaper than conflict.

Notes

10. Aihwa Ong, Flexible Citizenship: The Cultural Logics of Transnationality (Durham: Duke University Press, 1999), goes as far to argue that even citizenship can now be flexible.
12. I owe this observation on Guatemala to anthropologist Charles Hale.
15. Cooper, Decolonization: 387.
17. That this absence is a problem is indicated by the recent moves of the Council on Economic Priorities to incorporate NGOs, local and otherwise, into their network for the auditing of corporate labor practices under the guidelines labeled SA8000. See (http://www.cepaa.org).

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