

Interview – Sean Fleming

Written by E-International Relations

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This interview is part of a series of interviews with academics and practitioners at an early stage of their career. The interviews discuss current research and projects, as well as advice for other early career scholars.

Sean Fleming is a Junior Research Fellow at Christ's College, Cambridge. His research is primarily about the role of collective responsibility in contemporary politics and early modern political thought. His monograph, *Leviathan on a Leash: A Theory of State Responsibility*, will be published by Princeton University Press in November 2020. His articles have been published in both IR and political theory journals, including the *European Journal of International Relations*, *International Theory*, *The Journal of Political Philosophy*, and the *European Journal of Political Theory*.

What (or who) prompted the most significant shifts in your thinking or encouraged you to pursue your area of research?

I stumbled upon my area of research in about 2011, when I was an undergraduate student at Memorial University of Newfoundland. I was struck during a lecture by all of the responsibility-talk about states: Greece is in debt; Iraq was punished with economic sanctions; Germany paid reparations; developing states are bound by investment treaties; etc. So, I decided to write my undergraduate dissertation on the role of corporate agency and responsibility in IR theory. I've been thinking and writing about these and related issues ever since.

My undergraduate supervisor, Luke Ashworth, had a major influence on me. At the time, I had been steeped in American IR theory and analytic philosophy. Ashworth taught me the importance of history for IR and introduced me to many classics of international thought, from Ibn Khaldun to E. H. Carr. My MA supervisor, Antonio Franceschet, also had a major influence on me. When I started my MA in 2012, I was still an analytic philosopher at heart: I tended to seek out the most abstract of abstractions and the most general of generalizations. Franceschet pushed me to think more deeply about real institutions, and especially international law. Duncan Bell and David Runciman, my primary and secondary PhD supervisors, shaped my thought in countless ways. In addition to providing invaluable advice at every step, Bell encouraged me to pursue topics that are outside the box and also to think outside the Western canon. Runciman got me interested in technology, and his work on Hobbes inspired mine.

Your doctoral research was about theories of state responsibility. Could you outline the 'Hobbesian' theory of state responsibility that you develop?

Let me begin with a bit of background. A theory of state responsibility is essentially an answer to the following question: why, and under which conditions, should responsibilities be assigned to whole states rather than to individual leaders or officials? A theory of state responsibility aims to justify the practice of holding states 'corporately' responsible and to determine when corporate rather than individual responsibility should apply. For instance, when a dictator borrows money, should the debt be assigned to the state or only to the dictator as an individual? In response to an aggressive war, should sanctions target the whole state (as in an embargo) or only the leadership (as in an asset freeze)?

In the introduction to *Leviathan on a Leash*, I break down the practice of state responsibility into three parts and three

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corresponding questions. The first part is ‘attribution’: what distinguishes an act of state from a private act? In order to determine what a state is responsible for, it is first necessary to determine whose actions are attributable to that state. The second part is ‘identity’: how can a state persist over time despite changes in its territory, membership, or institutions? The continuity of the state’s responsibilities presupposes the continuity of the state itself. The third part is ‘distribution’: who should bear the costs and burdens of the state’s responsibilities? Since a state cannot act on its own, its responsibilities ultimately have to be ‘distributed’ to individuals in order to be fulfilled.

The Hobbesian theory of state responsibility comprises a set of answers to these three questions. What makes the theory ‘Hobbesian’ is that Hobbes’s account of personhood is its point of departure. The central idea is that states can be understood as ‘persons’ in Hobbes’s sense – that is, as entities that can speak and act vicariously via authorized representatives. Relations of authorization and representation determine whose actions are attributable to the state, to what extent the state persists over time, and how the costs and burdens of the state’s responsibilities ought to be divided up among its members.

What are the implications of the Hobbesian theory of state responsibility for the role of collective responsibility in modern politics?

One theoretical implication of the Hobbesian theory is that collective responsibility need not depend on metaphysical propositions about groups. Practices such as sovereign debt, treaty-making, and reparations can be understood perfectly well without the supposition that states are rational or intentional agents. Hobbes’s crucial move, which I follow, is to decouple personhood from agency. An entity need not even be *real* in order to be a person in Hobbes’s sense; it need only have an authorized representative who acts in its name. As Hobbes says, even “An Idol, or meer Figment of the brain, may be Personated,” provided that someone is authorized to represent the idol. Here he is thinking of the Roman gods, which could buy and sell property through their legal representatives. The state too is a “meer Figment of the brain,” but it can borrow money, wage war, and sign treaties through the human beings who act in its name. And when the state does these things – albeit always vicariously – the resulting debts and obligations attach to the state rather than to its individual representatives. The Hobbesian theory of state responsibility thus explains how ephemeral, made-up persons – with no more agency than the Roman gods – can owe money, pay reparations, and uphold treaty obligations.

Another theoretical implication of the Hobbesian theory is that analogies between collective and individual forms of responsibility are often misleading. The prevailing theories of state responsibility in IR, political theory, and international law are based on analogies between state responsibility and some form or another of individual responsibility. I argue that these analogies tend to be misleading, even if they are sometimes useful heuristics. For instance, treaties differ in important ways from contracts between individuals. Although treaties are like contracts in that they are voluntary agreements, treaties are unlike contracts in that they bind third parties – namely, the members of the state – who did not agree to them. In addition, unlike contracts between individuals, treaties can long outlive the people who sign them. The Hobbesian theory helps to illuminate the ethically complex facets of state responsibility that are obscured by analogies with individual forms of responsibility.

The major normative implication of the Hobbesian theory is that state responsibility for wrongdoing should be understood as reparative rather than punitive. If we follow Hobbes, then it is difficult to see how a state – a “meer Figment of the brain” – could be punished, because it cannot feel guilt or suffer the pain of punishment. The primary purpose of holding states responsible for wrongdoing is to provide a source of compensation for large-scale harms and atrocities. Identifying the individual perpetrators and orchestrators of a war or a genocide is difficult. And even if they can be identified, it may be impossible to extract sufficient compensation from them, either because they lack the means to pay or because they are already deceased. States, on the other hand, have deep pockets and long lifespans. They can be made to ‘pay’ – in a financial sense, at least – for wrongdoing that is done in their names.

You have argued that it is unnecessary to hold states criminally responsible. Why is this the case and what are the advantages?

Since we are accustomed to thinking and speaking of states as individuals, it is tempting to hold states criminally

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responsible, as we do with individuals. Anthony Lang has argued that international criminal law should apply to states, just as criminal law applies to corporations in many domestic legal systems. I argue that it is unnecessary to hold states criminally responsible, because individual criminal responsibility (in domestic and international courts) already provides an outlet for punishment in the international realm. It is not necessary to hold both states and individuals criminally responsible. Instead, I suggest, there is a 'division of labour' between state responsibility (which is reparative) and individual responsibility (which is punitive).

A purely reparative conception of state responsibility has several advantages over punitive conceptions. I discuss several of these in a recent article; I'll just mention one advantage here. If state responsibility is understood in reparative terms, then it is less likely to become a pretext for vengeance. In the absence of an impartial authority that can judge whether a state has committed a crime and, if so, what its sentence should be, 'punishment' would be little more than vigilantism. Allowing states to decide for themselves whether a 'criminal state' has 'paid for its crimes' would invite them to take sanctions too far. In addition, punishment of states provides an all-too-easy justification for war and intervention. Of course, reparative forms of state responsibility are also liable to abuse in the absence of an impartial judicial authority – think of the crushing 'reparations' imposed on Germany after the First World War, or on Iraq after the First Gulf War. But the gratuitous infliction of suffering is even easier to justify in the name of punishment than in the name of reparation. One can only imagine the scale of cruelty that could be justified by the idea of 'punitive damages' against states.

Your next project is about the extension of 'artificial personhood' to non-corporate entities, such as nature and robots. What are the issues that arise with new technologies such as machine learning and artificial intelligence?

I argue that the issues of responsibility that arise from new technologies are often analogous to those that arise from collective action. For example, when a driverless car injures a pedestrian, who should be liable – the user, owner, programmer, or manufacturer? It's often difficult to attribute the behaviour of an autonomous system to particular human agents, because there are many individuals involved and because the chains of causation and intentionality are fuzzy and entangled. The same sort of problem arises in cases of collective action. When many individuals act together, as in a state or a corporation, they can produce outcomes that none of them individually caused, foresaw, or intended. For instance, there are many cases in which planes have crashed and ships have capsized as a result of the combined actions of hundreds or thousands of people. For some of the same reasons that it is difficult to parcel out responsibility for the consequences of collective action, it is difficult to parcel out responsibility for the behaviour of autonomous systems. As I suggest at the end of *Leviathan on a Leash*, an autonomous system can be understood as collective action congealed in an object. New technologies pose many genuinely novel problems, to be sure. But I think the problems of *responsibility* that new technologies pose tend to be less novel than they first appear.

What are you currently working on?

Speaking of technology, I've just finished revising an article about Ted Kaczynski (the Unabomber) and the rise of new anti-tech radical groups. I first uncover the origins of Kaczynski's ideas, then trace his influence on later thinkers and movements. I argue that anti-tech radicalism constitutes a distinct ideological cluster and an emerging threat. This threat has flown under the radar because the new anti-tech radicals have been mistaken for environmental radicals. Yet, as I show, anti-tech radicals have a much greater propensity for violence. My hunch is that the Unabomber is a harbinger of things to come, and that anti-tech terrorism will become a significant form of political violence in this century. This article is part of an ongoing side-project about techno-ideologies, such as accelerationism, ecomodernism, and neo-Luddism.

I'm now revising an article about the idea of placing time-limits on treaties. The idea that every treaty should have an expiry date was not uncommon in the eighteenth and nineteenth centuries, but it's now taken for granted that treaties can bind states in perpetuity. I argue that the idea of time-limiting treaties should be reconsidered, not least because many long-term and perpetual treaties are bound up with the legacy of imperialism (such as the Cuban-American Treaties of Relations, which serve to legitimize the American presence in Cuba).

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What is the most important advice you could give to young scholars?

This piece of advice helped me when I was a PhD student: put your ideas in writing and try to publish them early. There are three reasons to do this. First, it will help you get used to criticism and failure. I've had so many rejections from journals – between 20 and 25 – that they don't faze me anymore. Negative reviews are an occupational hazard in this line of work. Second, ideas don't always get better with time; sometimes they just get stale. If you think of an article as a snapshot of your ideas at a given time – many of which you'll change or abandon – it's easier to get over your perfectionism and write something. And if you don't publish your ideas now, you may never publish them at all, because you'll be preoccupied with other ideas later. Third, and most obviously, publishing early is advantageous career-wise. But I think the other two reasons are equally important.