



**Mylene Silva Lucciola Guedes**

**Exceptional Order: The effects of American  
Exceptionalism on the relationship between the  
United States and International Law**

**Dissertação de Mestrado**

Thesis presented to the Programa de Pós-graduação em Relações Internacionais, do Instituto de Relações Internacionais da PUC-Rio in partial fulfillment of the requirements for the degree of Mestre em Relações Internacionais.

Advisor: Prof. Andrea Ribeiro Hoffmann

Rio de Janeiro  
February 2024



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This work is dedicated to Maridir.  
An amazing grandmother, mother, sister and aunt.  
You are missed every day.

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## Abstract

Silva Lucciola Guedes, Mylena; Ribeiro Hoffmann, Andrea (Advisor). **Exceptional Order: The effects of American Exceptionalism on the relationship between the United States and International Law**. Rio de Janeiro, 2024. 185p. Dissertação de Mestrado – Instituto de Relações Internacionais, Pontifícia Universidade Católica do Rio de Janeiro.

The concept of ‘American exceptionalism’ has permeated U.S. history and created an image of a country with ‘better’ democratic system and society, able to promote domestically and internationally the democracy, human rights and the rule of law. This idea has legitimized U.S. leadership in the construction of a liberal international order. The rise to power of President Donald Trump and the current crisis of the global order have contributed to question this idea and assumptions. This dissertation has two main aims, firstly, to discuss the concept of American exceptionalism, and secondly to analyse how the concept of American exceptionalism affects the relationship between the United States and International Law. It will be argued that exceptionalism can be defined as a concept and analysed with the theoretical and methodological lenses of Conceptual History. With no definitive meaning, American exceptionalism is made of different interpretations that vary across the context the author was situated in. Still, its importance in American history and identity is unquestionable, making it necessary to take exceptionalism into account when trying to understand the United States’ actions. In order to analyse the relation of American exceptionalism and International Law, the dissertation will engage with the literature of International Liberal Order, U.S. hegemony and multilateralism. Furthermore, it will inquire if the rise of Donald Trump can be considered a rupture in two American traditions: the United States relationship with International Law and the political use of exceptionalism. It is argued that, although clearly distancing himself from the exceptionalist tradition, Trump did not deviate from International Law tradition as it is commonly perceived. This perception is derived from his radical speeches, loud persona and ties to the Far-Right, but do not translate into most of his policies.

## Keywords

United States; Conceptual History; International Law; American exceptionalism; Donald Trump; Liberal international order.

## Resumo

Silva Lucciola Guedes, Mylena; Ribeiro Hoffmann, Andrea. **Ordem Excepcional: Os efeitos do Excepcionalismo Estadunidense na relação entre os os Estados Unidos e o Direito Internacional**. Rio de Janeiro, 2024. 185p. Dissertação de Mestrado – Instituto de Relações Internacionais, Pontifícia Universidade Católica do Rio de Janeiro.

O conceito de "excepcionalismo americano" permeou a história dos EUA e criou uma imagem de um país com um sistema e uma sociedade democráticos "superior", capaz de promover a democracia, os direitos humanos e o Estado de Direito em nível nacional e internacional. Essa ideia legitimou a liderança dos EUA na construção de uma ordem liberal internacional. A ascensão ao poder do Presidente Donald Trump e a atual crise da ordem global contribuíram para questionar essa ideia e seus pressupostos. Esta dissertação tem dois objetivos principais: em primeiro lugar, discutir o conceito de excepcionalismo americano e, em segundo lugar, analisar como o conceito de excepcionalismo americano afeta a relação entre os Estados Unidos e o Direito Internacional. Será argumentado que o excepcionalismo pode ser definido como um conceito e analisado com as lentes teóricas e metodológicas da História Conceitual. Sem um significado definitivo, o excepcionalismo americano é composto de diferentes interpretações que variam de acordo com o contexto em que o autor se situa. Ainda assim, sua importância na história e na identidade americanas é inquestionável, tornando necessário levar em conta o excepcionalismo ao tentar entender as ações dos Estados Unidos. Para analisar a relação entre o excepcionalismo americano e o Direito Internacional, a dissertação se envolverá com a literatura sobre a Ordem Liberal Internacional, a hegemonia dos EUA e o multilateralismo. Além disso, será perguntado se a ascensão de Donald Trump pode ser considerada uma ruptura em duas tradições americanas: a relação dos Estados Unidos com o Direito Internacional e o uso político do excepcionalismo. Argumenta-se que, apesar de se distanciar claramente da tradição excepcionalista, Trump não se desviou da tradição do Direito Internacional como é comumente percebido. Essa percepção é derivada de seus discursos radicais, de sua personalidade estrondosa e de seus vínculos com a extrema direita, mas não se traduz na maioria de suas políticas.

## Palavras-chave

Estados Unidos; História Conceitual; Direito Internacional; Excepcionalismo americano; Donald Trump; Ordem internacional liberal.

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## List of Abbreviations

CEDAW – Convention on the Elimination of All Forms of Discrimination  
against Women

CFR – Council on Foreign Relations

CRPD – Convention on the Rights of Persons with Disabilities

EU – European Union

GATT – General Agreement on Tariffs and Trade

HST – Hegemonic Stability Theory

ICC – International Criminal Court

INF – Intermediate-range Nuclear Forces

IL – International Law

ILO – International Labor Organization

IR – International Relations

IMF – International Monetary Fund

LIO – Liberal International Order

NAFTA – North American Free Trade Agreement

NATO – North Atlantic Treaty Organization

NGOs – Non Governmental Organizations

TPP – Trans Pacific Partnership

U.S. – United States

UN – United Nations

UNCRC – United Nations Convention on the Rights of the Child

WHO – World Health Organization

WTO – World Trade Organization

# 1 Introduction

The United States has had considerable difficulty in adhering to the rule of law in its conduct of foreign affairs. However, there also have been occasions when the United States has taken the lead in supporting the rule of law in resolving some of the major international issues. There has been, in other words, a substantial degree of inconsistency in the US record (Murphy, 2004, p.349).

The United States of America (U.S.) is perceived by many as the leader of the liberal order that we currently live in. At the end of World War II, the U.S. established itself as the hegemon, with the transition of hegemony taking place since World War I. In this position, the U.S. has endeavored to spread the Liberal International Order (LIO) and its values to the rest of the international system (Deudney; Ikenberry, 1999, 2018). Although subject to much criticism, the LIO is commonly understood as an order that seeking the security of countries, was propagated with greater development of International Law (IL) through multilateralism, with liberal and democratic values, with Western countries in the lead and the U.S. as the key leader (Deudney; Ikenberry, 1999, 2018).

Despite its central place in this order, the United States has had inconsistent positions regarding the IL, as John Murphy (2004) points out. On one hand, some scholars argue that this inconsistency is evidence of contradiction (Saito, 2010). On the other, their actions can be explained and justified by their position as a hegemon in the system (Bradford; Posner, 2011). This dissertation discusses U.S. hegemony and leadership, but it focuses on a more specific aspect of the relation of the U.S. and IL, namely, *American exceptionalism*.

American exceptionalism can affect the country's relationship with International Law in different ways, and it is manifested internationally by the United States through several actions, such as reluctance or caution in being part of certain international treaties, as in the case of the Rome Statute that established the International Criminal Court (ICC). American exceptionalism often grounds the promotion of democracy and human rights globally, and U.S. leadership in the establishment of the Universal Declaration of Human

Rights, or even unilateral military interventions, such as the invasion of Iraq in 2003 without explicit authorization from the Security Council (Murphy 2004; Jorgensen, 2015).

These examples show that there is tension in the United States' relationship with International Law. In several cases these actions can be explained by political or economic interests, however, some specific actions, such as the refusal to ratify conventions and treaties that further expand human rights, are more difficult to explain. As great defenders of democracy, freedom, equality and human rights, how can the U.S. have failed to ratify conventions that, in theory, aim to better protect minority groups<sup>1</sup>? This dissertation explores the role of exceptionalism as an explanation.

To better understand how exceptionalism affects the relationship between the U.S. and IL, it is necessary to first define exceptionalism. There is a basic understanding that can be understood as 'common knowledge' of what it means: the U.S. and the Americans are exceptional in a qualitative matter — meaning superior (Hodgson, pp.xii-xvii, 2009; Restad, pp.x, 4, 7, 12, 14, 2015). This does not mean that the authors agree with this description, only that this definition in particular is quite disseminated. Yet, as it will be shown, distinct interpretations of American exceptionalism exist.

For instance, there is no consensus of who coined the term 'American exceptionalism'. It is often attributed to political philosopher Alexis de Tocqueville, however, some authors attribute it to Joseph Stalin (McCoy, 2012). In this account, Stalin did not use this term to indicate any superiority, but rather, he scoffed the U.S. for its abnormalities of not desiring egalitarianism and the American Left having no strong support to communism. As it will be seen, exceptionalism indeed has ties to communism — at least in most of the twentieth century, but during the 1980s it had a different connotation. This dissertation focuses actually in the changes of the interpretation of the concept of exceptionalism, and draws on Conceptual History<sup>2</sup> in order to do so. There has been an increase in the number of publications about American exceptionalism over the last fifty years, however, few have analysed the changes of its

<sup>1</sup>Such as the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Convention on the Rights of the Child (UNCRC) and the International Convention on the Rights of Persons with Disabilities (CRPD).

<sup>2</sup>Although Genealogy "overlaps with concept history in exploring the evolution of a concept within socio-political structures", it "is distinct from concept history in that its aim is not tracing change, but showing how a concept is assembled into something taken for granted while, simultaneously, showing that any notion of a concept having a unified or coherent meaning is an illusion." (Berenskötter, 2017, p.169). Since Genealogy can be understood doing the reversal of the project of interpretation, as William E. Conolly points out in *The Terms of Political Discourse* (1993, p.232), Conceptual History fits better in this dissertation.

meaning overtime, and its effects on the relation of the U.S. with IL.

The general objective of this dissertation is therefore to analyze and highlight how the concept of American exceptionalism is mobilized by the U.S. in its international actions, and more specifically, its effects on its relationship with International Law over time, and in particular, during the government of Donald Trump. Trump's government is particularly interesting because he is the first Far-Right U.S. President, and also because it took place in a context of a crisis of the liberal international order. Thus, it is also the aim of this work to understand the relations between what could be at first glance, a rupture in the American tradition of exceptionalism and relationship with International Law.

The choice of the United States as a theme comes from its relationship with exceptionalism, a term with many interpretations, often used without any criteria. However all countries have strong and unique narratives of creation and national identity, because every nation's experience is unique. The choice of the U.S. for this analysis is in no way based on a belief that it is exceptional. What makes the case of the U.S. significant is its role as hegemon and leader in the LIO. Although the two characteristics can be called into question — declining hegemon and crisis in the LIO — they are important factors in the characterization of the U.S., and were taken into account. A country's position on International Law can affect the entire system, especially if it is the United States, leading to questions of legitimacy and privilege in the international system.

Finally, it is important to provide some clarifications. It will not be argued whether or not the United States is, in fact, exceptional, nor is it the aim of this work to reach any conclusion on this question. Exceptionalism is understood here as a subjective self-understanding, not an objective truth, and confirming its existence is not the same as confirming or agreeing with what it preaches (Restad, 2015). Furthermore, it is not the intention of this dissertation to criticize the United States and Americans, although many authors used in this work will. This is a critical work that does not wish to portray either in a negative or positive manner the subjects discussed, but rather discusses them analytically, trying to remain prejudice free. As it will be seen, there are American scholars that endorse exceptionalism and others that criticize it, just like not-American scholars. In the case of Brazilian scholars, the topic is not very much explored and the literature include two scholars, but who followed

a different path of focus — foreign policy<sup>3</sup> and securitization<sup>4</sup>.

The dissertation is structured as follows: the second chapter starts with a discussion of the importance of concepts for the International Relations (IR) field and argues that concepts are more than words, with no fixed or stable definition, but rather different interpretations. An analytical framework based on Conceptual History is developed, drawing on the seminal work of Reinhart Koselleck (1989, 1992, 2004, 2011) and its use in the discipline of International Relations by mainly Felix Berenskötter (2016). The analysis also draws on questions developed by Julio Benvivoglio (2010) about Koselleck's work that are used to analyse the use of concepts in different time contexts. Accordingly three contexts were defined in order to organize in and across specific time and space the concept of exceptionalism: *Post-Cold War*; *War on Terror*; and *Recent Time*. For each context, the interpretation of two or three authors of American exceptionalism is presented, along with the questions to allow for a comparative assessment over time and space.

The third chapter focuses on the United States relationship with International Law, and analyses three key factors that define the country and this relationship: the liberal international order (Deudney; Ikenberry, 1999, 2018; Parmar, 2018), American hegemony (Hurrell, 2008), and multilateralism (Ruggie, 1992). The relationship itself is also explored (Murphy, 2004; Ignatieff, 2005; Saito, 2010; Bradford; Posner, 2011).

The fourth and last chapter analyzes what is considered by some authors to be the rupture of exceptional American democracy and other American traditions: the rise to presidency of Donald Trump. Are analysed the crisis of the liberal order and what is Trump's relation to it (Deudney; Ikenberry, 2018; Cooley; Nexon, 2020; Fortin et al, 2023), and the characterization of the former president as a Far-Right leader (Main, 2018; Mudde, 2022; Parmar; Furse, 2023). Additionally, the importance of considering intermestic affairs to explain the changing relations of the U.S. with IL and the LIO (Ruggie, 2005; Meinderts, 2020), and if the rise of Trump can be considered a rupture or not in American tradition (Edwards, 2018; Stokes, 2018; Restad, 2020; Gilmore; Rowling, 2021; Pollack, 2023; Tyrrell, 2022) are also discussed.

The conclusion summarizes the main findings and explores possible future research derived from this work.

<sup>3</sup>See: Resende, Erica. *Americanness, Puritanism, and Foreign Policy: the (re)production of Puritan ideology and the construction of national identity in discursive practices of U.S. foreign policy* (2009).

<sup>4</sup>See: Motta, Bárbara. *Securitização e Política de Exceção: O Excepcionalismo Internacionalista Norte-Americano na Segunda Guerra do Iraque* (2018).

## 2

### The concept of exceptionalism

In line with Koselleck's note that concepts are not only indicators of but also factors in change, which implies that concepts do something, the historical approach also considers the concept's representational performance. That is, it asks how a concept influences decisions, actions and social relations during particular historical moments and, ultimately, shapes the course of history (Berenskötter, 2016, p.163).

An important reason to pay attention to concepts is that they "give the field of IR its ontology. They provide analysts with an understanding of what is 'out there' and in doing so help to grasp relevant phenomena by naming and giving meaning to its features." (Berenskötter, 2016, p.152). This argument made by Felix Berenskötter is part of a discussion of concepts being crucial for theorizing. The theorizing part is not important for this dissertation, since no theory is intended to be made from this analysis. However, concepts are of critical importance for this work.

For Reinhart Koselleck, the study of concepts and their linguistic transformation is a basic condition for historical knowledge (Koselleck, 1989). The author argues that "[e]very concept is not only effective as a linguistic phenomenon; it is also immediately indicative of something that lies beyond language." (Koselleck, 1992, p.136, our translation), implying a relationship between linguistic facts and concrete reality. Exceptionalism can therefore be understood as a concept, with concrete implications for the reality of its various meanings.

Due to the key relevance of the concept of exceptionalism to this dissertation, the analytical framework is primarily based on conceptual analysis. More specifically, this dissertation will use Conceptual History mainly rooted on Koselleck, although somewhat adapted. Concepts transcend their original context and have the capacity to project themselves in time and space. For this reason, concepts cannot be understood as autonomous textual systems, but are always related to a given social reality, and at the same time as they have permanence, they have the condition of temporal change (Bentivoglio,

2010). Conceptual History will then guide this analysis offering leading questions to be asked about the concept of exceptionalism *in* and *across* specific time and place. In this sense, the contexts in which the authors used here were situated have an important place in this analysis, with interpretations affected by the author's own context.

The first section, 2.1, presents the analytical framework and methodology of the research, and includes a discussion of why concepts matter for IR and an explanation of how Conceptual History will be used. There will also be a definition of specific contexts created for the analysis in this dissertation, and the questions that will be asked. The following section, 2.2, being the most important one for this chapter, discusses the three contexts that this dissertation is looking into. The 2.3 section contains tentative answers to the questions shown in the first one. At last, there is a brief summary of the points made in the chapter. The aim of this chapter is to offer a base for what exceptionalism could mean, offering the foundation for the question this dissertation is worried about.

## 2.1

### **Theoretical framework and methodology: discussing Conceptual History**

As an abstract heuristic device, a concept is not considered a real or accurate representation of the world or of reality, but rather, something which its possibility is up to debate. A concept is “a mental image which meaningfully organizes this reality/world, perceived through sensory experiences, in the mind.” (Berenskötter, 2016, p.154). Most prominent concepts in IR “designate broad and complex phenomena whose material manifestations are plural, shifting, and incomplete — if they are accepted to exist in the first place.” (Berenskötter, 2016, p.155). One account of how and where concepts are formed is one that believes that concepts have a cognitive function and are part of a linguistic structure, meaning that concepts are created through and exist primarily in language, being social and intersubjective constructs.

Berenskötter explains that this account has risen to prominence due to the ‘linguistic turn’ in the humanities and the social sciences in the 1970s. Concept analysis, being influenced by the linguistic turn, would have two levels: academic research and everyday life.

- (i) academic research, where concepts are used as analytical categories, as tools for abstract logical reasoning and heuristic devices guiding empirical study, with no (necessary) direct correspondence in socio-political discourse;
- (ii) every-day life, where concepts guide thought and action of individuals and collectives across all sectors

of society, sometimes captured as ‘indigenous categories<sup>5</sup>’, or ‘categories of practice’ (Berenskötter, 2016, p.155).

These levels lead to an important question about the focus of concepts analysis, whether “it explore[s] how concepts (as categories of analysis) are used as building blocks of academic theories, or does it analyse how concepts (as categories of practice) operate in society more widely?” (Berenskötter, 2016, p.155). Furthermore, this implies a division between two scholarly endeavors:

[O]n the one hand, academics with a specialised theoretical language that use concepts as analytical instruments with little or no connection with the frames used in broader society; indeed, not even making an assumption about whether and how concepts matter in everyday life. On the other hand, an academic approach with a theory about concepts as socio-political forces, yet which is less concerned with abstract explanations and more with carving out how concepts operate in everyday life (Berenskötter, 2016, pp.155-156).

Although this division makes sense for theorists with different approaches, it becomes problematic when analyzing concepts used for studying social-political phenomena “due to the simple fact that scholars of world politics are part of the world they are studying and their analytical categories are intertwined with [...] the ‘terms of political discourse?’” (Berenskötter, 2016, pp.155-156). Therefore, concepts shouldn’t be analyzed based on these previously mentioned — academic research or everyday life, to have sole focus on theory or sole focus on everyday life.

In the late 1980s many IR scholars were writing about the linguistic turn and using different approaches drawn from it, with discourse analysis being probably the most prominent one. With time, the impact of the linguistic turn became more refined, and some scholars called attention to the problem Berenskötter is talking about decades later. Iver B. Neumann (2002) says that for IR,

the linguistic turn is not just a turn to narrative discourse and rhetoric, but to how politics is actually effected. The analysis of discourse understood as the study of the preconditions for social action must include the analysis of practice understood as the study of social action itself. This turn to practice will strike certain

<sup>5</sup>The author uses this term from Frederick Cooper, *Colonialism in Question: Theory, Knowledge, History* (2005).

scholars as unnecessary. They may argue that, since the world cannot be grasped outside of language, there is nothing outside of discourse, and for this reason, the analysis of language is all that we need in order to account for what is going on in the world. Such a response would, however, miss the point, for what is at stake is not the question of whether anything exists ‘outside of’ language. Practices are discursive, both in the sense that some practices involve speech acts (acts which in themselves gesture outside of narrative), and in the sense that practice cannot be thought ‘outside of’ discourse (Neumann, 2002, pp.627-628).

Although not looking at concepts, Neumann’s point is that language cannot be separated from the action, since practice involves language and is informed by language. To look at concepts as only affecting ‘academia’ or ‘real life’ is to ignore how these contexts are connected. Berenskötter uses Reinhart Koselleck’s work to discuss concepts as ‘clusters’ and ‘in contexts’, bridging therefore the division between academic and socio-political discourse.

Concepts tend to be attached to words, although not exclusively and not necessarily always to the same word. As such, a concept is more than a word. Whereas the meaning of a word points to one particular thing, a concept catches and bundles multiple elements, aspects and experiences and relates them to each other (Berenskötter, 2016, p.158).

Concepts should not be seen as words, and to define a concept is not to fix a meaning: it is through definition that “we move beyond the word to express the concept’s constitutive elements and indicate how they relate, that is, how the cluster is formed.” (Berenskötter, 2016, p.159). Koselleck argues that unlike a word, which can have its meaning determined by usage, a concept is only a concept if it remains polysemic. And although the concept is associated with the word, it is more than the word because, as said by the philosopher Friedrich Nietzsche, “only that with no history can be defined” (Koselleck, 2004, p.85). What Berenskötter is arguing, in the words of Koselleck, is that concepts cannot have definitive meanings, only words, so concepts must be interpreted (Koselleck, 2011).

To understand why and how certain elements and relations are chosen and why a concept is interpreted in a particular way, we need to pay attention to ‘context’ – the frame, environment or field within which a concept is embedded. More precisely, we need

to pay attention to the relationship between concept and context. That is, accounting for concepts in context not only involves asking about how the former is placed in the latter and how this imbues the concept with meaning; it also involves having an eye on how the concept is situated in a particular context and shapes (our understanding of) the latter. Thus, we might say concept analysis involves tracing how a basic concept is formed and how it performs within a context (Berenskötter, 2016, p.160).

In order to do a concept analysis, it is then necessary to move beyond the semantic field. Berenskötter suggests that the context needs to be analyzed in four dimensions: political, temporal, material and theoretical.

The *socio-political dimension* asks for attention to the formation and performance of a concept in (international) society and within a political system: to trace how a concept is used and its meaning manifested by political actors, its diffusion throughout society/the system and the different understandings and usages seen in different parts of that society/system. It also directs attention to how a concept shapes society and how its meaning becomes a subject of political contestation. The *temporal dimension* involves studying the historicity of a concept and how its meaning or content is formed and evolves over time. It views concepts as embedded within a particular historical moment and/or particular structures stretching over time into the future. Conversely, analysts may ask how a concept shapes our understanding of time, namely how it directs our temporal orientation and privileges certain readings of past and future. The *material dimension* asks us to look at the material space(s) and bodies in which the concept is used and manifests itself, including what happens to meaning when the concept travels from one material context to another. Equally, it asks us to be sensitive about how concepts organise and shape (our awareness of) material spaces and bodies. Finally, the *theoretical dimension* directs attention to how concepts are situated in a broader ideational framework, or narrative. It requires exploring the role a concept plays in a particular theoretical ontology and argumentative logic and how it acquires meaning through this role (Berenskötter, 2016, pp.160-161, emphasis added).

Berenskötter further discusses different approaches to concept analysis, one of them being a historical approach by Koselleck. “Starting from the view

that concepts are ‘in motion’”, Conceptual History “traces how a particular concept is understood and employed differently throughout history, how it evolved, and how we arrive at the meaning(s) we employ today.” (Berenskötter, 2016, p.162). He also shows how this type of analysis — i.e. context in four dimensions — can be beneficial to theory building. As previously said, this dissertation will not engage in theory building. However, the four dimensions are helpful to the analysis of the concept of exceptionalism.

Therefore, this dissertation will use Conceptual History, drawing mainly from Reinhart Koselleck ideas, but with adjustments to better fit in the field of International Relations. An important reading of Koselleck that Berenskötter offers is:

The approach advanced by Koselleck is especially interested in exploring how conceptual changes correlated with the discontinuity of political, social, and economic structures, and how and why certain experiences and structural changes were understood in particular ways. Thus, it analyses convergence and divergence between ‘real’ history and how ‘history’ was framed by contemporaries, with a particular focus on how divergences generated new concepts or changed the meaning of existing ones (Berenskötter, 2016, p.162).

Discontinuity and structural changes are important to define the context that each author used here is situated and therefore three main contexts will be defined and described next. But before that, it is important to discuss a possible problem with Conceptual History, which is the neglect of agency when focusing on linguistic and social-political structures.

After all, concepts do not act (on their own); looking at a ‘concept in action’ requires looking at who is using it. So to understand their historical evolution we must also ask what historical actors do with concepts, why and how they assign and manipulate meaning. Tracing the use of concepts among a variety of agents in a given society, beyond a few elite figures, is not an easy task and requires a fine-grained analysis that is difficult to do when taking a macro-historical perspective (Berenskötter, 2016, p.163).

This leads to a challenge in the methodology of tracing patterns of political language around a particular concept, in and across specific space and time — synchronic analysis and diachronic analysis, respectively. Koselleck holds that these two modes of analysis are inseparable, and a decision about

how to balance and combine them is partly informed by the change the researcher is looking at.

In this dissertation, this challenge is addressed with the division of three different contexts in which the concept of exceptionalism will be analysed. In the diachronic dimension, the contexts are located between the end of the Cold War and the present. In the synchronic dimension, the contexts are defined by the differentiation of interpretation of the concept of exceptionalism by different authors. The authors were selected given their relevance and position towards the concept of exceptionalism. The definition of the contexts along these lines allow for an assessment of the development of the concept of exceptionalism in and across time.

In temporal terms, the first context is defined by the period of the post-Cold War, and two authors will be discussed, namely Seymour Lipset (1996) and Deborah L. Madsen (1998). This period was a time of a perception of victory in the United States, and of the only superpower in international relations, with exceptionalism being referred to explain the victory. The second context is War on Terror, and the work of three authors will be analysed, Godfrey Hodgson (2009), Natsu Saito (2010) and Michael Ignatieff (2005). In this period, exceptionalism was deeply questioned and contested. The third and last context is the last decade, i.e. since the 2010s. This context is not defined by a specific historical event but a perception of a crisis of the international liberal order and the rise of the Far-Right globally, including in the U.S. with the election of Trump. As it will be analysed in depth, while the first context is mostly a period in which exceptionalism was seen positively, or at least not negatively, and in the second context, exceptionalism is mostly judged and criticized, the final and third context moves beyond a dichotomous characterization of the concept, and in which the debate is less normative and more analytical. The authors discussed in the third context are Hilde Restad (2015) and Ian Tyrrell (2022).

The work of Oliver Kessler is helpful for this dissertation due to his innovative contribution to the discussion about how concepts can be analyzed through Conceptual History. He argues that concepts are linked “to contingency in the formation of objects, facts and meaning of events” which “highlights that concepts are irremediably linked to questions of ordering, (non-)knowledge and thus power. Concepts are not neutral devices, but carry in-built biases, hierarchies and performative consequences.” (Kessler, 2021, p.551). Kessler explains that:

conceptual history frames the contingencies, ruptures, and discontinuities of the way our knowledge about the world is being formed.

[...] [T]his approach highlights the discontinuities with the past with the implication that these discontinuities show on the conceptual level. Neither is it possible to project our contemporary concepts onto past events, nor can we take past concepts out of their historical context and simply ‘apply’ them to current events (Kessler, 2021, p.552).

This is especially relevant when it comes to exceptionalism because it is a concept whose history is mostly taken out of context. Or as Berenskötter said in a previous quote, Conceptual History analyzes the “convergence and divergence between ‘real’ history and how ‘history’ was framed by contemporaries, with a particular focus on how divergences generated new concepts or changed the meaning of existing ones.” (Berenskötter, 2016, p.162). History is therefore quite important for exceptionalism, but it is its modern use that creates most of the actual history of the concept, in the sense that it can be traced back.

While “[w]ords are used in specific contexts for specific purposes and are said to refer to facts”, concepts “‘encompasses’ a plurality of experiences and incorporates a variety of theoretical and practical references” (Reinhart Koselleck, 1979, p.XXIII apud Kessler, 2021, pp.554-555). Some concepts, such as democracy and capitalism (that Kessler analyses), and exceptionalism (as analyzed in this dissertation), can

trigger an entire history of arguments, images, and experiences from which they cannot be separated. As a consequence, concepts cannot be true in any positivist understanding. Since they encapsulate an entire array of different experiences and hence are ‘valid’ across situations, their meaning is not fully captured by a correct reference. To disentangle the meaning of concepts hence demands historical reflexivity and interpretation of their use in a particular period of time (Kessler, 2021, pp.554-555).

Kessler’s work dialogues with the methodology proposed so far, i.e. considering interpretations and their contexts, but he offers something else. While defending the worth of Conceptual History analysis, he argues that it should be seen not as an approach, but as “a set of questions around the interdependence or co-evolution of semantic and social change.” (Kessler, 2021, p.552). As an approach, “conceptual history is not simply about the reconstruction of changes in the use of concepts over time” or “just about the history of concepts. Instead, conceptual history as part of philosophical hermeneutics is linked to questions of being-in-the-world.” (Kessler, 2021,

p.553). The motive to consider Conceptual History as a set of questions for Kessler is that this helps Conceptual History in IR to unpack how concept formation, politics and social formations are intertwined. "Conceptual history as a set of questions then operates in-between notions of politics, society, experience and (temporalisation of) concept formation." (Kessler, 2021, p.557).

The History of Concepts is "the procedure that allows us to learn the complex process of re-signifying certain concepts over time." (Kirschner, 2007, p.49). As a concept, exceptionalism is not static, having undergone changes over time and space. A concept must be understood as an object immersed in temporality and language. It is neither fixed nor stable, having several temporal layers with meanings of different durations. Koselleck offers three groups of political and social concepts, based on their different temporal changes: "traditional ones whose original meaning is always recovered, concepts whose meaning has changed, such as history, and neologisms." (Bentivoglio, 2010, p.127). These definitions will come back in the conclusion.

In a 1967 article called *Richtlinien für das Lexikon politisch-sozialer Begriffe der Neuzeit*<sup>6</sup>, Koselleck lists some assumptions that can be used when analyzing a concept from the perspective of the History of Concepts. Julio Bentivoglio (2010) translated and organized these assumptions into a list of questions.

- 1) How common is the use of the concept?
  - 2) Has its meaning been the subject of dispute?
  - 3) What is the social spectrum of its use?
  - 4) In what historical contexts does it appear?
  - 5) What other terms does it appear in relation to, either as a complement or as an opposition?
  - 6) By whom is it used, for what purposes and to whom is it addressed?
  - 7) How long has it been in use?
  - 8) What is the value of the concept in the structure of the political and social language of the time?
  - 9) With what other terms does it overlap?
  - 10) Does it converge over time with other terms?
- (Bentivoglio, 2010, p.119).

These questions are helpful for two stages of this research: firstly for the overall analysis through Conceptual History of exceptionalism; secondly for the analysis of each context, that will, in the end, complement the understanding of exceptionalism as a concept. The questions will guide the analysis of each context, pointing out where the analysis should focus on, what remained the same and what changed. In the end of this chapter, an attempt to answer these questions will be made.

<sup>6</sup>Guidelines for the lexicon of political-social terms of modern times. Our translation.

Three additional points about the theoretical framework and methodology should be highlighted. First, a concept can exist without being used, in the sense that literature about American exceptionalism exists even though the author or authors do not use the term ‘exceptional’. Concepts are more than words and more than one word, meaning they can be linked to a few words, or a lot of words, and do not depend on the concept word to exist or to be referenced to (Berenskötter, 2016). Due to time and space limitations, this dissertation chose to present different interpretations of exceptionalism of authors that explicitly use the word exceptionalism. Secondly, many authors used here will be considered a primary source, not a secondary one. By creating the contexts as specific categories of time and space that will be analyzed, the bibliography chosen to represent each context is being considered as a primary source for how the concept of exceptionalism was interpreted in that moment.

Lastly, as already stated in the introduction, the mention and appearance of exceptionalism in national publications has increased over the years. After its moment in politics in the 80s, with Jimmy Carter and Ronald Reagan, it appeared 457 times over the following twenty years. From the 2000s to 2010s, 2,558 times. From 2010 to 2012, 4,172 times (McCoy, 2012). These numbers and the popularization of the concept are important to show that many scholars were discussing exceptionalism, and to highlight that choices had to be made of which authors will have a space here — mostly based on citation rate.

## 2.2

### Exceptionalism: contexts and interpretations

It is not the aim of this dissertation to define whether the United States is or is not exceptional, nor if exceptionalism is a good thing or a bad thing. This has already been explained in the introduction, but it is deeply important to highlight that to accept or argue that exceptionalism exists is a statement by itself, and does not mean or necessarily leads to any value judgement. Therefore, to present different contexts, with different opinions and positions towards the concept is a way to enrich the work of interpretation of American exceptionalism.

#### 2.2.1

##### Post-Cold War

In this subsection, the definition of American exceptionalism existing in Seymour Lipset’s book of 1996, *American Exceptionalism: A Double-Edged Sword*, and in Deborah L. Madsen’s 1998 book, *American Exceptionalism*, will be discussed. In this first context that starts in the post-Cold War period,

exceptionalism was not heavily criticized, but mostly accepted by Americans as a matter-of-fact characteristic of their society. Having won the war, with liberal democracy proving to be the most powerful, scholars were more worried about explaining what had happened. This does not mean that the concept was not critically analyzed, even by those who supported the idea.

The first author is Seymour Lipset, an American sociologist and political scientist that is known for his work on exceptionalism. His book is referenced in many contemporary works — including by all the authors in the following two subsections — and even though far from being the first to write about it, he is among many considered to be a point of reference in the subject.

In *American Exceptionalism: A Double-Edged Sword* (1996), Seymour Lipset seeks to explain why there is no socialism in the U.S. He references its organizing principles and founding political institutions as exceptional, meaning that they are “qualitatively different from those of other Western Nations” (Lipset, 1996, p.13). The author writes this book years after the dissolution of the Soviet Union, in a time commonly understood as of a ‘victorious feeling’, with a good economic scenario and rapid technological innovations with Bill Clinton as the president. However, he contextualizes his work as being in a time of overall American distrust of their leaders and institutions, with Americans worrying that the great years of their nation are behind them.

Alexis de Tocqueville’s *Democracy in America* of 1835 is where the U.S. is first referred to as exceptional, being the initiator of the writings on this topic, according to Lipset. This concept could only be created through a comparison between the U.S. with other societies, something Tocqueville did by comparing the U.S. with France. However, when Tocqueville referred to America as exceptional, he did not mean that it was better or superior than other countries. Instead, he was only suggesting, just like other foreign social scientists had, that the U.S. has a qualitative difference, that the country is an *outlier*. Comparative work is something Lipset is invested in, in consequence of his belief that in order to say something is different, or exceptional in the case of the U.S., there has to be a comparison, to showcase what exactly is distinct and exceptional about that something.

The main reason for the author’s interest in the concept of exceptionalism is that he believes that the ideology of exceptionalism is what explains why there is no socialism in the United States. Lipset had previously done work on this question, of not only the U.S. but also Canada. What is different about this book is that it focuses on the exceptional ideology as the reason, because it means that Americans are “much more individualistic, meritocratic-oriented,

and anti-statist than people elsewhere” (Lipset, 1996, p.22). The author gives a handful of explanations for the exceptionality of the country. For starters,

[t]he United States is exceptional in starting from a revolutionary event, in being “the first new nation,” the first colony, other than Iceland, to become independent. It has defined its *raison d'être* ideologically. As historian Richard Hofstadter has noted, “It has been our fate as a nation not to have ideologies, but to be one.” (Lipset, 1996, p.18).

Besides being a pioneer as a new nation, the U.S. also has been the most religious country in Christendom, something Tocqueville noted and contemporary data corroborates — with the exception of a few Catholic countries, like Poland and Ireland. Churches in the U.S. are historically not linked to the state, being more of congregational types. This point is made to first show that a moral code is heavily present in American society due to their Christian values. And to also show the lack or less collectiveness aspiration present in the country, even when dealing with commonly collective aspects such as religion. Lipset goes on to argue that the U.S. is the most moralistic country in the developed world, mainly due to its unique Protestant sectarian and ideological commitments.

However, “exceptionalism is a double-edged concept. [...] [W]e are the worst as well as the best, depending on which quality is being addressed.” (Lipset, 1996, p.18). In more details,

America continues to be qualitatively different. To reiterate, exceptionalism is a two-edged phenomenon; it does not mean better. This country is an outlier. It is the most religious, optimistic, patriotic, rights-oriented, and individualistic. With respect to crime, it still has the highest rates; with respect to incarceration, it has the most people locked up in jail; with respect to litigiousness, it has the most lawyers per capita of any country in the world, with high tort and malpractice rates. It also has close to the lowest percentage of the eligible electorate voting, but the highest rate of participation in voluntary organizations. The country remains the wealthiest in real income terms, the most productive as reflected in worker output, the highest in proportions of people who graduate from or enroll in higher education (post-grade 12) and in postgraduate work (post-grade 16). It is the leader in upward mobility into professional and other high-status and elite occupations, close to

the top in terms of commitment to work rather than leisure, but the least egalitarian among developed nations with respect to income distribution, at the bottom as a provider of welfare benefits, the lowest in savings, and the least taxed (Lipset, 1996, p.26).

Lipset argues that the ideology that organizes the country “includes a set of dogmas about the nature of a good society. Americanism, as different people have pointed out, is an ‘ism’ or ideology in the same way that communism or fascism or liberalism are isms.” (Lipset, 1996, p.31). And to be an American is not a matter of birth, but an ideological commitment, where “those who reject American values are un-American” (Lipset, 1996, p.31). The American creed, americanism or ideology of exceptionalism<sup>7</sup>, can be described in five terms: liberty, egalitarianism, individualism, populism, and laissez-faire. In opposition to “conservative Toryism, statist communitarianism, mercantilism, and noblesse oblige dominant in monarchical, state-church-formed cultures.” (Lipset, 1996, p.31). While Europe was dominated by aristocratic forces, American society was dominated by “pure bourgeois, middle-class individualistic values” (Lipset, 1996, p.32).

The book goes on to further discuss each aspect that makes the U.S. exceptional from other countries. The problems with the society, listed previously, are also analyzed and possible reasons for their existence are given. In order to provide a better view of this distinctiveness, some aspects will be exemplified, although severely summarized. The U.S. is not a conservative society in the same definition of conservative in Europe, they are in fact deeply anti-state liberals. The U.S. is different from most of the West in its division of a decentralized government, with two houses of Congress and a federal High Court, besides the presidency, and not a parliament. While in most European countries voting is encouraged and it expresses good citizenship, in the U.S. it is not mandatory and people are less engaged with politics that involve the state.

Moreover, Americans are less abiding to law, and the high crime rate could be linked to the stress and pressure of the egalitarian and meritocratic society, where individuals are more worried about the end than the means, to achieve the American dream/promise. The high American crime rate may be found in the emphasis on the “due process” guarantees for individual rights, derived from a Bill of Rights, which has produced legal inhibitions on the power of the police and prosecutors, including the absence of serious gun-control measures. Patriotism is also very present in the U.S., where Americans are proud of their nation and have a belief of superiority of their system over

<sup>7</sup>The author alternates between these terms, which mean the same for him.

others, despite the evidence of corruption and higher violent crime rates. The religious aspect is related to a bourgeois economy since puritanism was more than a religious doctrine, but also similar to liberal polity.

The lack of respect for authority, anti-elitism, and populism contribute to higher crime rates, school indiscipline, and low electoral turnouts. The emphasis on achievement, on meritocracy, is also tied to higher levels of deviant behavior and less support for the underprivileged. Intense religiosity is linked to less reliance on contraception in premarital sexual relationships by young people. The same moralistic factors which make for patriotism help to produce opposition to war. Concern for the legal rights of accused persons and civil liberties in general is tied to opposition to gun control and difficulty in applying crime-control measures. The stress on individualism both weakens social control mechanisms, which rely on strong ties to groups, and facilitates diverse forms of deviant behavior (Lipset, 1996, p.290).

Although this dissertation is not evaluating the authors used in this chapter, it is important to mention that Tocqueville is heavily quoted as a source. However, it is not clear which sources Tocqueville used for his own comparisons between the U.S. and France. It was a different time, with other parameters for literature and with significantly less data available than today. It can be said then that Lipset is based on a not very precise empirical comparison.

Further developing the definition of 'ideology', Lipset explains that americanism as a political ideology created an utopian orientation, where Americans seek a good society, in line with moral, religion and liberalism. "Americans are utopian moralists who press hard to institutionalize virtue, to destroy evil people, and eliminate wicked institutions and practices." (Lipset, 1996, p.63). Those in favor of American wars see them as moralistic crusades: to eliminate monarchical powers, end slavery and colonialism, to make the world safe for democracy, to resist totalitarian regimes.

Moralism is not only expressed in anti-war activity. Support for war is also moral, as too is patriotic behavior. Here again, America has been different from most other countries. The United States has insisted on the "unconditional surrender" of the enemy in various wars. The reason for this demand has been, in large part, that America, as a principled nation, must go to war for moral reasons.

We set moral goals, such as “to make the world safe for democracy,” as reasons to go to war. We have always fought the “evil empire.” Ronald Reagan was as American as apple pie when he spoke of the evil empire as the enemy. But, if we fight the evil empire, if we fight Satan, then he must not be allowed to survive. [...] Americans have been unique in their emphasis on non-recognition of evil foreign regimes. The principle is related to the insistence that wars must end with the unconditional surrender of the Satanic enemy. Unlike church countries, the United States rarely sees itself merely defending national interests. Foreign conflicts invariably involve a battle of good versus evil. [...] The United States does not ally itself with Satan. If circumstances oblige it to cooperate with evil regimes, they are converted into agents of virtue. [...] Americans feel the need to turn the bad guys on their side into good guys. (Lipset, 1996, pp.65-66).

For Lipset, those who see that American behavior being determined by exceptionalism is something that needs to change, are only looking at the bad side of American exceptionalism. There is no denying that Americans yearn for the good old days, but they have always yearned for them, a trend of decades. There is no denying also of the impression that a change in basic values has happened, because to dismiss public perception that something is off is to deny the reality of individual experience.

American values are quite complex, particularly because of paradoxes within our culture that permit pernicious and beneficial social phenomena to arise simultaneously from the same basic beliefs. The American Creed is something of a double-edged sword: it fosters a high sense of personal responsibility, independent initiative, and voluntarism even as it also encourages self-serving behavior, atomism, and a disregard for communal good. More specifically, its emphasis on individualism threatens traditional forms of community morality, and thus has historically promoted a particularly virulent strain of greedy behavior. At the same time, it represents a tremendous asset, encouraging the self-reflection necessary for responsible judgment, for fostering the strength of voluntary communal and civic bonds, for principled opposition to wars, and for patriotism (Lipset, 1996, p.268).

Considering the anger about politics in the U.S., and the dissatisfaction

of part of the society that Lipset keeps mentioning, how could the American system continue to be stable?

Part of the answer to the conundrum is that most Americans are not unhappy about their personal lives or prospects; if anything, the opposite is true. They still view the United States as a country that rewards personal integrity and hard work, as one that, government and politics apart, still works. The American Dream is still alive, even if the government and other institutions are seen as corrupt and inefficient (Lipset, 1996, p.287).

What happens is that “Americans fight each other in their efforts to defend or expand the American Creed.” (Lipset, 1996, p.290).

Although the author defined exceptionalism as a qualitative difference, the idea, even in his book, is always accompanied by a notion of distinctive U.S. values as superior to any alternative in what is good about the nation, even though he recognizes the defects. What we can extract from Lipset is an understanding of exceptionalism as a national ideology, which provides people with an American identity of qualitative exceptionalism, in an idea of the best of the best and the worst of the worst. Lipset was worried to explain why there was no significant labor party or socialist movement in the U.S. However, his work is used by many authors, including some used in this dissertation, to discuss exceptionalism not necessarily how he intended, i.e. as a qualitative difference and understanding the good and the bad. It is his definition of exceptionalism as an ideology that is quite common.

Writing in the same time period as Lipset, Deborah L. Madsen discusses exceptionalism as an ideology in her book *American Exceptionalism* (1998). However, a main distinguishing point of their work is that while Lipset was worried about answering why there was no socialism in the U.S., Madsen seeks to give a historical account of the concept, i.e. its contribution and evolution as an entity that is ideological and geographical.

My argument is that American exceptionalism permeates every period of American history and is the single most powerful agent in a series of arguments that have been fought down the centuries concerning the identity of America and Americans. Though the arguments themselves change over time, the basic assumptions and terms of reference do not change, and it is the assumptions that are derived in important ways from the exceptionalist logic taken to the New World by the first Puritan migrants (Madsen, 1998, p.1).

The Puritan idea, of a 'city upon a hill', is a belief that means that America and Americans are special, exceptional, because they are charged with saving the world from itself and, at the same time, America and Americans must sustain a high level of spiritual, political and moral commitment to this exceptional destiny - America must be as 'a city upon a hill' exposed to the eyes of the world. This concept has generated a self-consciousness and degree of introspection that is unique to American culture (Madsen, 1998, p.2).

While Lipset sees exceptionalism as being something created by foreigners who were comparing the U.S. with European countries, Madsen sees as the most important historical fact of exceptionalism its usage in creating the American cultural identity from Puritan origins. And it is clear for her that the exceptionalist rhetoric informs American politics.

Events are transformed in the course of interpretation into the providential signs of nationalism. The history of America is a history of redemption - of individuals as well as of the nation itself - and this commitment to America as an exceptional nation is reflected in the way the lives of public leaders have been written as continuing the spiritual biography of America, as the nation and its people work towards the salvation of all humankind (Madsen, 1998, p.14).

Madsen goes in depth in the relationship of exceptionalism and Puritanism. Her work is heavily historical and mainly focused on this time period. The attention to the modern days is paid by looking at specific literature or other types of art and media that helped to reinforce exceptionalism in recent times, before the turn of the twenty-first century. But her account of interpretation of signs of nationalism are relevant to understand exceptionalism as a concept that affects practice. Being the reason why it is such an important concept to understand the United States.

By focusing on the Puritans, Madsen mentions John Winthrop, an English settler, part of the Massachusetts Bay Company, that is commonly mentioned in literature about exceptionalism due to a specific sermon. In the flagship *Arbella*, Winthrop claimed that they would be a City upon a Hill, signaling the special destiny that the community could wait for. For this speech, the reference used by the author is John Winthrop writings, that are part of the Massachusetts Historical Society. This is important because this

very sermon is considered by many as the foundation of exceptionalism, and some say that it might have never happened (Hodgson, 2009).

Madsen is not worried about making an evaluation of exceptionalism — if it is good or bad. Her arguments are made to prove how exceptionalism exists as an ideology that affects the national identity of Americans, and the role of puritanism in this. Her work is not as recognized as Lipset's, but it is still as good of a reference for the first context being analyzed in this dissertation. Especially because, as previously explained, the division in contexts is done in order to tell the history of exceptionalism as a concept. However, this history is not necessarily linear. Madsen's work has a lot in common with more recent research on exceptionalism, while similar contemporary authors are still inspired by Lipset. Lipset and Madsen both use famous figures as the precursors of exceptionalism, although different ones, and there is no consensus; the history of exceptionalism was not a settled matter even then.

### 2.2.2

#### War on Terror

The analysis of this context includes: *The Myth of American Exceptionalism* (2009) by Godfrey Hodgson, *Meeting the Enemy: American Exceptionalism and International Law* (2010) by Natsu Saito, and *American Exceptionalism and Human Rights* edited and partially written by Michael Ignatieff (2005). The first author, Hodgson, have an extensive presentation in comparison to all the other authors presented — that will not have any — and the reason will be discussed in the conclusion. As said, 9/11 is mentioned and its effects are clear in all three authors in this context. It was a time to worry about different things, such as imperialism, International Law and international human rights.

Godfrey Hodgson was a British journalist, part of a generation of Europeans that saw Americans as their saviors. Although British, he believed his own personal political beliefs were essentially American. “I have of deliberate choice spent most of my life trying to understand the politics and the history of the United States.” (Hodgson, 2009, p.xi). Hodgson covered the civil rights movement, made a documentary of the racial crisis with an extensive interview with Martin Luther King Jr., wrote a bestseller about the 1968 presidential election and biographies of famous politicians, and a television series about Ronald Reagan. These are just a few examples of his interest and dedication to American history and politics.

With this deep connection, why would Hodgson write a book criticizing what he calls one of “the most cherished shibboleths of American national feeling” (Hodgson, 2009, p.xi)? In the late 1970s, he started feeling that

something was going wrong in American public life.

The balance of political and cultural power was shifting, from working Americans to their corporate masters, from ordinary Americans to the very rich, and from the center Left to the far Right. I shared this feeling with many Americans at the time. Indeed, my own misgivings were essentially learned from American friends, of many backgrounds (Hodgson, 2009, p.xi).

Hodgson was bothered by a few things. The missionary persuasion trait of American politics was something that always troubled him. And during the 1980s and the 1990s, the United States was becoming a class society, being the same problem Britain struggled to cease that has also always troubled the author. But what worried him the most was the

new insistence that America be admired, almost worshiped. One of the glories of American life, I had always felt, was the readiness to criticize, to ask questions, to challenge shortcomings. Now, in political journalism and especially in the outpourings of new research institutions that made little pretense of open inquiry and unblushingly promoted conservative ideology and the economic interests of the privileged, there was a new intolerance, a new demand for uncritical assertion of national superiority (Hodgson, 2009, pp.xii-xiii).

According to him, his generation in Britain deeply rejected the pretension to empire. To validate imperialism in the name of spreading democracy was to repeat Britain's hypocrisy, and was even worse "to hear this from the very people who had taught us the anti-imperial principle caused an emotion that went beyond anger, to contempt." (Hodgson, 2009, p.xiii). And there was in this discourse, which was un-American in his opinion, "a glorification of military power, a demand of obeisance to a nationalist and anti-internationalist creed, a xenophobia." (Hodgson, 2009, p.xiii).

Hodgson knew that an aggressive strand in American attitudes regarding the rest of the world was nothing new. The history of the country was a mixture of commitment to freedom, slavery, and personal ambitions and interests. A fact that most societies share in their history. Why would or should they be different?

Americans, after all, were not angels. They were men and women. They were not [...] new men and new women. They were men and

women of the same clay as the rest of us, and specifically they were, in their great majority, Europeans who brought with them to America European hopes, European fears, European ideals, European prejudices, and a European worship of the nation state (Hodgson, 2009, p.xiv).

In this train of thought, Hogson asked himself if part of the reason for what had seemed to have gone wrong in the country, perhaps might be the ‘corruption’ of the American exceptionalism doctrine.

The author details that the U.S. “had fallen into the hands of people who seemed to me to have departed, coldly and with calculation, from much of what I had seen as the best of the American tradition.” (Hodgson, 2009, p.xiv). They were aggressive and presumptions in their attitude to the rest of the world. By 1994 these people were taking over the Congress, “and seeking to impose their dogmas on the public life. They were laying siege to the judiciary.” (Hodgson, 2009, p.xv). By the year 2000 they had succeeded in taking over the executive branch of the federal government and some control over the media. It needs to be noted that the author does not mention anyone in particular, only using general terms.

Intolerance and chauvinism did not first appear in American public life in the early twenty-first century, of course. Hodgson questioned if he was wrong to see American exceptionalism as having something to do with these changes. He always read the history of the United States eagerly and with pleasure. Now, he read it again critically.

As I read and reflected, I came again to conflicting conclusions. *It was true — it seemed and still seems to me — that American history has been forced into a distorted and selective narrative of exceptional virtue.* It is not wholly untrue. But important truths have been left out. In particular, an exceptionalist tradition has exaggerated the differentness, the solipsistic character of American history. The uniqueness of the American political tradition has been overstressed. The values that were derived from and are still shared with Europe have been underestimated. The sheer historical connections between America and the rest of the world had been wiped from the slate (Hodgson, 2009, p.xvi, emphasis added).

The history of the country’s birth, growth and success that Americans were taught to believe was presented in ways that falsified or trivialized the real and already great story of the United States. And there is another side to this.

The ideals of American exceptionalism, in themselves, are neither mean nor trivial. At their best they have been incontrovertibly noble. The sovereignty of the people, the rule of law, the subordination of political conflict to constitutional jurisprudence and the protection of rights: these great principles have protected the United States from many of the worst of the political catastrophes that have plagued other great nations. They have frustrated bad men and women and motivated wise and courageous conduct. In that sense, the American conviction that the United States has a special duty and destiny has in the past worked, as other religions have done, to make those who believe in them wiser and more virtuous (Hodgson, 2009, p.xvi).

Even though Hodgson believes that American exceptionalism did not come from bad intentions,

it is not good, my whole experience tells me, for individuals or nations, to believe things that are not quite true. It is not healthy to congratulate oneself, or to exaggerate how much one excels others. It is not wise to imagine that one is called upon, by God or history or some other higher power, to rule others by superior force. It is wise, and it has been the better part of American wisdom in the past, to resist the temptation to dominate merely because one has the power to do so. It is dangerous, for oneself and for others, to create a myth that seems to justify, even demand, domination, whether it is called empire or not (Hodgson, 2009, p.xvii).

American exceptionalism is in no way the only cause of what has gone wrong in American political life and foreign policy. But it had part in it.

The great American liberal historian Richard Hofstadter once wrote that “it has been our fate as a nation not to have ideologies but to be one.” Each phase of American history has strengthened the perception among many Americans that the United States is not just one nation among many but a nation marked by the finger of destiny, the land that Lincoln called the “last, best hope of earth.” That sense was present long before the United States was the most powerful single nation on earth. It was there even before the United States existed, in the days of the earliest colonial settlements (Hodgson, 2009, p.27).

Then, Hodgson analyzed specific stories and symbols of American exceptionalism, in order to challenge it. John Winthrop was already introduced in the previous subsection as a famous character in the history of exceptionalism. He was believed to have delivered a sermon about a city upon a hill. The sermon became popular when Ronald Reagan quoted it in 1974, and again in 1989. However, Hodgson argues that there is no contemporary reference that proves that someone actually heard this sermon, and the circumstances of how this sermon came to be are also unsure. As previously shown, almost a decade before Hodgson's book, Deborah L. Madsen used John Winthrop's journals as the source for said sermon. It could have actually never happened. But even if John Winthrop indeed delivered said sermon, he was, nonetheless, an English settler.

[H]e was of course not preaching to Americans about the future of the United States of America. There were no Americans then, and the foundation of the United States was a century and a half in the future. Most historians would agree that there was no distinctively American consciousness for at least a century after Winthrop's sermon. Winthrop could not therefore have anticipated that the United States would be as a city upon a hill. He could not possibly have imagined a United States. He was preaching to Englishmen, and expressing his determination that the colony, or in contemporary language the "plantation," that he and his friends were setting out to found, would be an example to other English colonies, in North America and elsewhere. At the time, it is interesting to reflect that those British colonies included those settled by Scots Protestants in northern Ireland. We have no means of knowing whether Winthrop was thinking specifically of them. But in their context and their real meaning the sermon that Winthrop preached and the sermon that Ronald Reagan used to inspire a conservative shift in American politics some 350 years later have virtually nothing in common (Hodgson, 2009, pp.2-3).

As said before, the author was aware that the feeling was not new. But how it was being used and how it impacted American society, it was something coming from a shift in politics. Perry Miller was a Harvard history professor that knew much about the religious and literary culture of New England. However, his assumptions and interpretations of the history were profoundly unhistorical, according to Hodgson. Miller was writing about the nationalism of settlers in 1952, at the height of the Cold War. He was one of the founders

of the discipline of American Studies, which began as a way to provide the United States an official ideology to combat communism. For Hodgson it was easy to portray at this time the American civilization as having an exceptional character, since the U.S. was incomparably more prosperous than any other country.

The purpose of this book is precisely to challenge the assumptions of what Miller called “the uniqueness of the American experience.” Of course there have been rich and redemptive elements of the American experience that are characteristically American. But the thesis of this essay is not simply that history, as used for political purposes by [...] Perry Miller, or Ronald Reagan, is bad history. It is also now proving dangerous, to the United States and to the world, to overemphasize the exceptional nature of the American experience and the American destiny (Hodgson, 2009, p.9).

Although sometimes called Americanism, it is more accurate to call this tradition American exceptionalism.

*The core of that belief is the idea that the United States is not just the richest and most powerful of the world's more than two hundred states but is also politically and morally exceptional.* Exceptionalists minimize the contributions of other nations and cultures to the rule of law and to the evolution of political democracy. Especially since Woodrow Wilson, exceptionalists have proclaimed that the United States has a destiny and a duty to expand its power and the influence of its institutions and its beliefs until they dominate the world. In recent decades an economic dimension has been added to this traditional faith in the American Constitution and in the principle of government with the consent of the governed. For many American leaders and publicists today, capitalism, in the particular form it has taken in the United States, must be spread alongside freedom, democracy, and the rule of law (Hodgson, 2009, p.10, emphasis added).

There are different views of what makes America exceptional. It can be seen as a “matter of resources and material opportunity, and in particular of opportunities for immigrants to attain wealth and position that, it was claimed, they could never have aspired to elsewhere.” (Hodgson, 2009, p.11). Or what is exceptional is not “prosperity itself but certain traits in American society or in the American psyche that made Americans more likely to be

materially successful.” (Hodgson, 2009, p.11). Sometimes the explanation lies in the absence of class divisions. It is claimed that feudalism never succeeded in America, and something else could be found there.

So great were the opportunities of success in America [...], that no American could be trapped in class disadvantage for more than one generation except by his or her own fault. In a society that allowed slavery and later racial segregation, it was always hard to argue that opportunity was universal. But many of the claims made on behalf of the equality of opportunity in America have either passed in silence over the great racial exceptions, African-Americans and Native Americans, or averted their attention from other inconvenient truths. Sometimes the argument has been rather that, even if social class did exist in America, it did not permeate American politics as it did European politics, and there was in the past some truth in that. Specifically, scholars, exaggerating only slightly, argued that socialism, such an important factor in European politics, played no part in America. Again, we shall see that if socialism was a marginal and alien creed, social democracy, in the shape of the New Deal, was central to American politics for half a century (Hodgson, 2009, p.12).

Exceptionalism could also be understood as the unique contributions of American political philosophy. Only in America “did men believe that government must always have the consent of the governed; only in America did a political culture of rights predominate.” (Hodgson, 2009, p.12). Or one that is more recent. “America, to many, though not to all, is defined by a particular version of virtually unregulated capitalism as well as by democracy.” (Hodgson, 2009, p.12). Freedom and liberty are common banners of the American creed,

though it is hard for a society that retained slavery so long and still deprives an exceptionally high proportion of its citizens of freedom in the penal system to claim a unique attachment to personal liberty as such. Liberty, for Americans of the revolutionary generation, seems to have meant first and foremost freedom from the English king, and it is true that for a few years the United States was a rare example of a republican government with broad territory. Second, freedom meant freedom from a feudal landlord, and it was quite true that, once the land had been cleared of Native Americans and Mexicans, it was easier for men to acquire and own

land in America than anywhere in Europe. Equality, too, meant social equality, an end of forelock tugging and curtsying, and the sense that the poor man was the equal of his rich neighbor in personal dignity, even if there was always substantial inequality in America (Hodgson, 2009, pp.12-13).

For all the propositions used to prove exceptionalism, there is an element of truth big enough to support the vision of America as exceptional in outcomes and its principles.

*It is certainly true that the United States has often led the way. That was true of the establishment of a constitutional republic on a large scale. It was the first state to be explicitly founded on the consent of the governed, and on the principle of equality, even if that principle has so often been denied in practice. The United States was the first large country where the right to vote was available for a substantial proportion of adult white males, though as we shall see, that proportion was in reality lower, for longer, than has been generally supposed, and efforts to withhold the vote have been constant. Free or almost free public education was also accessible for a higher proportion of the white and especially the white male population earlier than in some, though not all, parts of Europe. Religious tolerance, though by no means universal, was also more widely observed, earlier, in America than in Europe. Certainly there was no state religion. The Constitution, and specifically the Bill of Rights, not only guaranteed important civil and human rights by law, even though in practice these were denied to many Americans: a culture of rights prevailed, and could often be successfully appealed to, and the scope of those rights expanded steadily. That is only the barest list of the American contributions to social and political progress. Observing the sheer diversity of the claims made for the uniqueness of the American experience and the exceptional qualities of American society, however, it is hard to avoid the suspicion that they are motivated at least in part by a wish to believe in them. Exceptionalism, it would seem, is not so much a disinterested view of the American past as a dimension of American patriotism (Hodgson, 2009, pp.13-14, emphasis added).*

For Hodgson, American history is filled with self-congratulatory myth. And it is no accident that this history is taught in American schools. The

pride of their nation led Americans to want more than socialize their children with this pride, but also immigrant children. They feel the need to share their beliefs, including the belief of their exceptionalism, with the rest of the world. There is a vision of the U.S. as a world society, due to the unique variety of immigrants in the country. But this is also the case for several other countries. And although they might proudly use the world society title, the goal of immigration in America is integration. “Wherever immigrants come from, as they and their children become Americans, they cease to be representative of the whole world.” (Hodgson, 2009, pp.15-16).

Most nations have also believed in their unique qualities and historic destinies. This belief is not confined to nations that had remarkable power and universalist ambitions at one time. Therefore, there is nothing exceptional about this exceptionalism. The American exceptionalism, for Hodgson, is essentially a form of nationalism. But it is

one thing to believe in one’s own exceptionalism. That can be morale-building and invigorating. It is quite another to arrive in another country — Iraq, for example — of whose history one knows little and whose language one cannot speak, and expect the inhabitants to accept one’s claim to exceptional virtue, especially if one’s actions do not immediately confirm it (Hodgson, 2009, p.14).

Hodgson says that his intention is not to minimize the achievements of the quality of American society. Every nation’s experience is unique, after all. The purpose is to argue that “the American experience has been less exceptional than is often claimed”, and “that such claims are dangerous, because they are the soil in which unreal and hubristic assumptions of the American destiny have grown.” (Hodgson, 2009, p.16). What needs to be done is to adjust the exaggerations made for and by exceptionalism. Hodgson suggests two propositions. First, it is a historical fact that the U.S. history has always been and still is “far more intimately connected with the history of the rest of the world, and in particular with the history of Europe, than is generally assumed in the United States, even if the character of that connection is complex.” (Hodgson, 2009, p.16). Second, “that the evolution of modern American social and political beliefs, including especially the core beliefs in liberty and democracy, has been more problematic than patriotic rhetoric claims.” (Hodgson, 2009, p.16). In the U.S., just like elsewhere, freedom and democracy had to be fought for, against foreigners but also domestically.

A recurrent topic in Hodgson’s book is that Americans were and are deeply influenced by Europe.

John Winthrop [...] and the other founders of Massachusetts were not impelled by a unique or exceptional American impulse. On the contrary, they were products of European education, European culture, European piety, and they were engaged in a great European quarrel. One hundred forty years later some of their descendants did, with others, create an American state, and they did so indeed in part, but only in part, as a result of the differentness (though scarcely the “uniqueness”) of their American experience. The principles of the American Revolution, however, were deep rooted in European origins (Hodgson, 2009, p.9).

Although American expansionism was set to be seen as benign, contrasting with the malign imperialist expansion of Europe, “the settlement, the development, and the culture of English-speaking North America was an integral part of the broader history of European imperial expansion from approximately 1500 to well past 1900.” (Hodgson, 2009, p.17). The American Revolution, for example, is connected to the battle between the British and French monarchies. Without the French, America would not have won. “Even though the ultimate success of the American revolution was arguably never in doubt, it remains true that the birth of the United States was an event, pregnant with consequences, in the history of Europe.” (Hodgson, 2009, p.19). The roots for this event also had to do with the political and intellectual history of Europe. The founders’ ideas were hardly American, but Europeans.

The twentieth century was important for the national ideology of exceptionalism. Over its course, the U.S. developed incontestable economic and military superiority, and American civilization increasingly influenced the world.

At the same time, Americans were increasingly attracted to a national ideology that cast them as redeemers of a sinful world. This view was never universal or uncontested in American public opinion, but it was increasingly influential. Between the two world wars, isolationism was a formidable political force, even though on analysis it turned out to hold not that the United States ought to be isolated from the world so much as that the United States should not involve itself with the affairs of Europe. To expand American influence in Latin America and the Orient was quite another thing (Hodgson, 2009, pp.21-22).

The vision of the U.S. as an international hero — for their areas of influence in a polarized world —, fighting oppression and justice, also strengthened

during this century. “If World War I disarmed America’s competitors and turned its creditors into debtors between 1914 and 1929, the second war more than confirmed American financial and industrial supremacy.” (Hodgson, 2009, p.22). Woodrow Wilson dealt with World War I as motivated by ideology. A war to end war, a war for democracy. Inspired by him, Franklin Roosevelt handled World War II as a national security matter for the United States. Moreover, it was a fight to end imperialism. The American help for the recovery of Japan and parts of Europe was generous, as well as an act of enlightened self-interest. Although impolite to say, “American exceptionalism owes much to war, and specifically to the fact that in the twentieth century the American economy was twice left undamaged and indeed enriched by war, while all its potential competitors were transformed into pensioners.” (Hodgson, 2009, p.24).

The history Hodgson tells is important to understand in which context he is writing this book. The author says that the administrations of presidents Harry S. Truman, Dwight D. Eisenhower, John F. Kennedy, Lyndon B. Johnson, and Richard Nixon, were dedicated to the support of democracy, against the threat of totalitarian communism. He cites these administrations to show how even different governments, from different parties, with very distinct policies, had a threat to combat in common. But also, because of said threat, it also meant that they often endorsed authoritarian regimes, in Iran, South Korea, and several military dictatorships in Latin America — all very far from resembling a democracy, says Hodgson.

For over 40 years after World War II, the U.S. maintained a coalition against the Soviet Union, and refined the ideology spread domestically and for the allies. The president of the United States received the title of leader of the Free world, from himself or journalists. The dissolution of the Soviet Union was more than a victory. For many Americans, it confirmed American exceptionalism, with the U.S. being the lone superpower.

Trouble came, as it will, out of a clear blue sky on the morning of September 11, 2001. At first, a common American response to the evidence that the United States was not, after all, universally loved was an inverted exceptionalism. “Why do they all hate us?” It turned out, of course, that it was not only America that they hated. Even in the danger of terrorism the United States was not exceptional (Hodgson, 2009, p.27).

The American destiny belief

does have roots that go back to the very earliest era of European settlement in North America. To some extent, it did guide the Founding Fathers and their early-nineteenth-century successors. In the nineteenth century Americans believed that theirs was what Jefferson called “the empire for liberty” and instinctively applauded when Lincoln said that their country was “the last, best hope of earth.” American exceptionalism was nourished by the spectacular success of the United States in the twentieth century, and especially by the way in which America, alone, emerged strengthened by two world wars. It was encouraged by the ideological struggle with communism. For many, it was confirmed by the collapse of the Soviet Union in 1991 and the subsequent discrediting of socialist ideas. Sadly, in this century it has been soured and exacerbated by the shock of the atrocities of September 2001 and their consequences (Hodgson, 2009, p.10).

The political support for the government actions, unilateralist and interventionist, after 9/11 “came in part from a paradox of public opinion. Stronger than ever, Americans felt more vulnerable than ever. But this new mood also derived from the widespread acceptance of an ever more exceptionalist interpretation of their own history.” (Hodgson, 2009, p.29). Although the actions were being severely challenged while Hodgson was writing this, he sees that the idea of the U.S. being morally exceptional, with the task of fulfilling its historical and unique destiny, remains powerful.

In *Meeting the Enemy: American Exceptionalism and International Law* (2010), Natsu Saito tries to understand what motivates the actions of the United States towards IL, and why its actions are usually sanctioned by Americans. Exceptionalism would be the explanation. This work will be referenced throughout this dissertation, due to its great contribution to different chapters. Here, the focus is what the author considers of exceptionalism.

Saito defines exceptionalism as an ideology that perceives the United States uniquely embodying freedom and democracy. This ideology “gives the American public a comforting explanation for why others might oppose U.S. hegemony, reinforcing and resonating with the history most Americans are taught and neatly sidestepping any questioning of U.S. foreign policy.” (Saito, 2010, p.54). The author focuses on exceptionalism being used to justify the War on Terror. This event led to the reshape of international and American norms, being a catalyst process for the constitution of the identity of the United States. The effects are long lasting, and will affect future administrations, regardless of the particular policies.

The rejection of International Law by contemporary American officials is not very different from what the founding fathers did when declaring independence in 1776. “Like their predecessors, contemporary American leaders rely upon the International Law and legal institutions that justify their control over the lands, peoples, natural resources, and markets which allow them to maintain their hegemonic status.” (Saito, 2010, p.250). The exceptionalism that is now being declared is essentially the same as argued by the founders, who used “colonial law of their era to justify their occupation of North America, but asserted a prerogative to deviate from its strictures for the greater good of bringing Western civilization to a more advanced stage.” (Saito, 2010, p.250). The current argument is that, in order to preserve and advance civilization, evil or savagery must be combated, even if it means to stray from legal standards. This same argument was used by Crusaders, settlers, and Puritans in American colonies. What primarily distincts them is that American officials in the twenty-first century “are the direct beneficiaries of a century of tremendous U.S. influence over the organizations that articulate and implement this law.” (Saito, 2010, p.250).

Besides an ideology that grants the U.S. unique character and position of exception for International Law, Saito also calls American exceptionalism a narrative.

This narrative presumes that human history is best understood as a linear progression toward higher stages of civilization, that Western civilization represents the apex of this history, and that the United States embodies the best and most advanced stage of Western civilization and, therefore, human history to date (Saito, 2010, p.229).

This narrative justified the settlement and expansion of British colonies, the independence of the country, the territorial expansion across the continent, and the spread of American military and political power globally. The strength the country emerged with after World War I, that was solidified in the wake and after World War II, was evidence of the inherent superiority of the nation. And the American story of creation, “with its framing of origins and purpose, has remained remarkably consistent over time, rationalizing the superimposition of the U.S. model onto international economic, political, and legal systems as well as individual states across the planet.” (Saito, 2010, p.229).

Through the ideology and narrative of exceptionalism, “the United States has both relied upon and shaped International Law while selectively exempting itself from its application with the exceptionalist argument that it

represented a higher, more evolved, form of civilization.” (Saito, 2010, p.230). The discourse of America fighting for freedom and democracy, allows the ideology of exceptionalism to seem reasonable, because although it might be selfish from one perspective, it can be seen as the country having the protection of humanity also at interest. This will resume in the next chapter.

Michael Ignatieff edited and wrote one chapter of the book *American Exceptionalism and Human Rights* (2005), and just like Saito (2010), he will be continuously referenced to. Ignatieff presents exceptionalism as the definition of American behavior towards human rights, characterized by complex and ambivalent patterns.

Since 1945 America has displayed exceptional leadership in promoting international human rights. At the same time, however, it has also resisted complying with human rights standards at home or aligning its foreign policy with these standards abroad. Under some administrations, it has promoted human rights as if they were synonymous with American values, while under others, it has emphasized the superiority of American values over international standards (Ignatieff, 2005, p.1).

Having in mind that Ignatieff is worried about human rights, he discusses four types of explanations for American exceptionalism: a realist, a cultural, an institutional and a political one. The first, the realist one, explains that American exceptionalism started with the U.S.’ exceptional global power since 1945. To be exceptionally powerful grants countries the ability to exempt themselves in the multilateral system because they can. “The United States can exempt itself from the ICC — and try to block its operation — because no other country or group of countries has the power to stop it.” (Ignatieff, 2005, p.12), they have no capacity to sanction the U.S. if it fails to comply with conventions or treaties.

“On a realist account, support for international law and willingness to submit to its constraints would be in inverse relation to a state’s power. The less powerful a state, the more reason it would have to support international norms that would constrain its more powerful neighbors. The more powerful a state, the more reluctant it would be to submit to multilateral constraint. Support for international law is bound to be strongest among middling powers like France, Germany, and Canada, democratic states that already comply with multilateral rights norms in their own domestic rights regimes, and

that want to use international law to constrain the United States. [...] Thus for middling powers the cost of their own compliance with human rights and humanitarian law instruments is offset by the advantages they believe they will derive from international law regimes that constrain larger powers. For the United States the calculus is reversed" (Ignatieff, 2005, p.12).

However, since the U.S. has a substantive commitment to the rule of law, and counts with NGOs and organizations that pressure the country to support human rights, the United States has to take at least some obligations seriously. The realist explanation helps to explain why the U.S. seeks to minimize the constraints from multilateral regimes. In order to maintain its power, the U.S. participates at the lowest possible cost to its sovereignty. In this view, the U.S. would be behaving like any other state. Still, the U.S. has supported engagements in the multilateral system that shorten and constrain its sovereignty. "Realism alone cannot account for the paradox of American investment in a system that constrains its power." (Ignatieff, 2005, p.13).

Therefore realism does not explain why the U.S. has chosen to engage in multilateral relations that can restrain its power, during different and very distinct governments, as Franklin D. Roosevelt and Ronald Reagan. The paradox needs to take culture into account, being the second type of exceptionalism. Particularly, how American leaders have understood between the constitutional values of their country and human rights.

Across the political spectrum since 1945, American presidents have articulated a strongly messianic vision of the American role in promoting rights abroad. This messianic cultural tradition has a long history, from the vision of the Massachusetts Bay Colony as a "City upon a Hill" in the sermons of the Puritan John Winthrop, through the rhetoric of Manifest Destiny that accompanied westward expansion in the nineteenth century, the Wilsonian vision of U.S. power making the world safe for democracy after World War I, and Roosevelt's crusade for the "four freedoms" in World War II. The global spread of human rights has coincided with the American ascendancy in global politics and has been driven by the missionary conviction that American values have universal significance and application (Ignatieff, 2005, p.13).

Here lies a conflict between national interest and messianic mission.

Messianism has propelled America into multilateral engagements that a more realist calculation of interest might have led the nation

to avoid. In American domestic politics, this sense of mission has refigured the ideal of a multilateral order of international law, not as a system of constraints on U.S. power, but as a forum in which U.S. leadership can be exercised and American intuitions about freedom and government can be spread across the world. This desire for moral leadership is something more than the ordinary narcissism and nationalism that all powerful states display. It is rooted in the particular achievements of a successful history of liberty that U.S. leaders have believed is of universal significance, even the work of Providential design. For most Americans human rights are American values writ large, the export version of its own Bill of Rights (Ignatieff, 2005, pp.13-14).

But if human rights are to be understood as based on American values, paradoxically, they do not offer anything new to the U.S.

In the messianic American moral project, America teaches the meaning of liberty to the world; it does not learn from others. Messianism does help to explain the paradox of exceptional multilateralism. Indeed, it suggests that American exceptionalism is not so paradoxical after all: since 1945 the United States has explicitly sought to fulfill its messianic mission at the lowest possible cost to its national interest and with the lowest possible impingement upon its own domestic rights system. U.S. policy, across administrations both Republican and Democratic, has been designed both to promote American values abroad and to safeguard them from foreign interference at home (Ignatieff, 2005, p.14).

Americans will only accept binding rights if they were elaborated by their own courts and legislatures. This is not just an attempt to control the rules and keep the country exempt from them. "The United States defends these exemptions in terms of the democratic legitimacy of its distinctive rights culture" (Ignatieff, 2005, p.14), that is based on the historical project of the American Revolution. "A realist account would explain exceptionalism as an attempt to defend U.S. sovereignty and power. The messianic account adds to this the idea that the United States is defending a mission, an identity, and a distinctive destiny as a free people." (Ignatieff, 2005, p.14).

The U.S. is not the only powerful state that has believed it had a special mission to export its culture and has articulated its identity in terms of its rights. Napoleonic France, the British Empire and the Soviet Union also have

done this. What is exceptional about American messianism is that it is the last imperial ideology left standing, while all the others are history<sup>8</sup>. “This may help to explain why a messianic ideology, which many Americans take to be no more than a sincere desire to share the benefits of their own freedom, should be seen by so many other nations as a hegemonic claim to interference in their internal affairs.” (Ignatieff, 2005, p.16).

The author sees it as useful to combine the realist type with the cultural one, with its emphasis on American messianic destiny. This combined view helps to explain not only the power dynamics but the distinctive ideology that guided America in its actions in the postwar human rights order. But neither can account the changes in American policy, and that neither the American exceptionalism, national interest, and messianic ideology, are set in stone.

The third explanation type stresses the distinctiveness of American institutions, helping fill the gap of the combination of the previous two types. The judicial review is more ingrained in the U.S. governmental system than in any other liberal democracy, the U.S. federalism has decisive importance for the national legal system, and the ratification for treaties have to go through the U.S. senate.

The U.S. system devolves significant powers to the states, meaning that key dimensions of human rights behavior — like punishment — remain beyond the legislative purview of the central state, as they are in many European countries. Even if it wanted to do so, the United States lacks a central instrument to harmonize U.S. domestic law in the light of international standards. Next, the U.S. Senate requires two-thirds majorities for ratification of international treaties, thus imposing a significantly higher bar to incorporation of international law than do other liberal democracies. These institutional features, created by the founders to protect citizens from big government or from foreign treaties threatening their liberties, impose exceptional institutional barriers to statutory and nationwide compliance with international human rights (Ignatieff, 2005, p.17).

Besides the different institutions, the history of political instability in the U.S. also helps the idea of political self-sufficiency and encourages the country to keep following its own ideas. In contrast to Europe, the U.S. never faced fascism — in reference to World War II — or occupation.

<sup>8</sup>Although not important for the dissertation, it is worth noting that Ignatieff believes that all other imperial ideologies are history (stayed in the past), implying that powerful religious ideologies would no longer exist or are not comparable to American exceptionalism.

There is also one more type of exceptionalism that helps to explain another side of the American preference for its own rights, rather than human rights. The political culture of the U.S. is significantly more conservative and more influenced by evangelical religion on topics relating to abortion, family law, women's and lgbtq+' rights. The overall American opinion will unlikely align with the liberal ideas contained in human rights conventions. Although, it needs to be pointed out that evangelical conservatism was a driving force behind some of U.S. actions internationally, such as the help for the fight of religious freedom in China and Sudan, and an inspiration to the intervention in Iraq that sought to bring democracy to the oppressed.

There has been a conservative ascendancy in American politics since the late 1960s, but it wasn't always like that. Social liberalism and liberal internationalism, the ideological competitors of conservatives, were once stronger. American exceptionalism was not a problem among its allies until the Vietnam war. If this analysis is correct, the current (to him) American exceptionalism can be explained by the weakness of American liberalism. "American commitment to international human rights has always depended on the political fortunes of a liberal political constituency, and as these fortunes have waxed and waned, so has American policy toward international law." (Ignatieff, 2005, p.20). Although written in 2005, this analysis can still be useful nowadays, and will return in the next chapter.

As explained, Ignatieff's book is made up of several chapters written by different authors. And he regularly references the different opinions of these other authors. For instance, on the question if American exceptionalism is an enduring or passenger feature. Anne-Marie Slaughter sees exceptionalism as incompatible with globalization. The convergence of state interests and the world becoming more interdependent are incentives for the U.S. to engage differently with International Law. Paul Kahn is skeptical about this, and believes that American exceptionalism has an unchanging nature. It will endure "because it is so deeply tied to the American commitment to sovereignty as an ideal of republican self-rule born of a revolutionary act of national self-creation (Ignatieff, 2005, p.21).

Another divergence is if exceptionalism is a good or a bad thing.

From the 1950s through the 1970s, the liberal academic consensus held American exceptionalism to be a very bad thing indeed. The liberal international lawyers, like Thomas Franck and Louis Henkin, who believed passionately in America's role as a creator

of international law, regarded American withdrawal from the international human rights drafting table from 1953 onward with unqualified dismay. They believed that international law could not develop without American leadership, and they believed that the international order should reflect American values. Yet this liberal consensus never went unchallenged. It always faced opposition from an influential strand of conservative and nationalist legal thinking (Ignatieff, 2005, pp.21-22).

The conservative wave slowly found its way in politics, and by 2000, George W. Bush administration was influenced by conservative nationalists. Withdrawal from the Kyoto Protocol, the opposition to the International Criminal Court, the right to interpret as it pleased the Geneva Conventions, are a few examples.

For conservative nationalists the most powerful state cannot be tied down [...] by international human rights norms. Its effectiveness as a world leader depends on being free of such constraints. Besides, its rights performance at home does not stand in need of lessons from abroad. The conservatives did more than defend American national pride and national interest. They raised a key argument of principle: why should a republic, based in the rule of law, be constrained by international agreements that do not have the same element of democratic legitimacy? (Ignatieff, 2005, p.22).

Exceptionalism is not a problem, it is a solution, according to conservative nationalists.

By signing on to international human rights, with reservations and exemptions, by refusing to be bound by agreements that would constrain its sovereignty, the United States manages to maintain leadership in global human rights at the lowest possible cost to its own margin of maneuver as the world's sole superpower. Exceptionalism, therefore, achieves a balance: the United States remains within the framework of international human rights law, but on its own terms. Given its preponderant power — and therefore its exceptional influence in the global order — it can dictate these terms. The rest of the world can choose to concede these exceptional terms, or to see the United States stand aside and take either a unilateralist or an isolationist turn. Exceptionalism is the functional compromise, therefore, that enables America to be a

multilateral partner in the human rights enterprise (Ignatieff, 2005, p.23).

In contrast, liberal internationalists believe that for America to be a human rights leader, it needs to be consistent, since leadership depends on legitimacy, that in turn, requires consistency. Double standards can increase resistance to U.S. leadership or damage its image as an example. However, to argue that exceptionalism is a costly mistake does not go very far. Although exempting itself, the U.S. capacity to enforce others to comply with international norms does not diminish.

Good or bad, American exceptionalism did not stop the development of international universal human rights. Without the support of the most powerful state, what the other states can achieve is limited. “But equally, American leadership has not proven as crucial, nor its opposition as damaging, to international law as either American internationalists or their European allies are prone to believe.” (Ignatieff, 2005, p.23). The U.S. opposition did not stop the emergence of multilateral transnational institutions. But following John Ruggie<sup>9</sup>, “America may be exceptional in its illusion that it can exempt itself from these processes, but this [...] would be to swim against the tide of increasing international cooperation to master the problems that national governments cannot master on their own.” (Ignatieff, 2005, p.24).

A great consideration Ignatieff gives is that “any evaluation of American exceptionalism fundamentally expresses a certain preference for a certain type of America.” (Ignatieff, 2005, p.25). He gives as an example the following:

Those who wish America were less exceptional are actually expressing the desire for it to be a certain kind of good international citizen, one bound, despite its exceptional power, by multilateral definitions of appropriate state responsibility toward its citizens and rules relating to the use of force against other states. The virtue of this multilateral identity is that it would make America more attractive to itself, a benevolent superpower voluntarily restricting its sovereignty for the sake of the greater global good (Ignatieff, 2005, p.25).

However, other examples can be listed. Hodgson (2009) saw America as an example of a society, culture and politics. He indeed says that he was always bothered by the missionary trait of Americans, but he only turned

<sup>9</sup>John Ruggie wrote one chapter in Ignatieff’s book referenced here, and will be presented later on

critical enough on exceptionalism to write a book about it, years later of him first noticing that something was off. In his book it is noticeable that he has a vision of what America should be, and the strand of exceptionalism being propagated is not it. It is important to keep in mind that all the authors used in this chapter have a preference for the United States they wished that existed. This will return at the end for this chapter.

### 2.2.3

#### Recent time

The last context includes Hilde Restad's book *American Exceptionalism: An Idea that Made a Nation and Remade the World* (2015) and Ian Tyrrell's book *American Exceptionalism: A New History of an Old Idea* (2022). Only one year after Restad's book came out, Donald Trump was elected. Tyrrell's book title is powerful, referencing that despite being an old idea, the concept of exceptionalism constantly reemerges. The analytical worries present in both of these works are extremely helpful, and distinguishes them the most from the previous contexts.

Hilde Eliassen Restad was a foreign student in the United States, interested in understanding how exceptionalism influenced American foreign policy. During her time in the U.S., it was obvious to her that American exceptionalism was a real and serious phenomenon.

Americans believe their country to be unique, but, in a sense, every country is unique. By using the phrase "exceptional," however, Americans seem to mean that their country is more unique than others. This opens the door to a dangerous nationalism while closing the door on cultural understanding and comparative – and perhaps humbling – perspectives (Restad, 2015, p.x).

As already discussed, Alexis de Tocqueville is known as the creator of the term exceptional to refer to the United States. Restad calls attention to a passage of Tocqueville where he says that in relation with foreigners, although all nations have different displays of national pride, Americans get annoyed at any amount of censure and are insatiable for being praised. It seems to him that because they doubt their own merits, they want them to be constantly reaffirmed.

Restad situates exceptionalism in recent politics with Barack H. Obama's experience. During the run for president in 2008 and his administration, Obama was accused of being anti-American by part of the media and his competitors. Not only from the republican side, but also by democrats, such as Hillary

Clinton. But one particular moment is worth mentioning. Already in office, at a G20 press conference in Strasbourg in 2009, Obama was asked whether he believed in American exceptionalism. He answered he did believe in it, and added just as he suspected that the British and the Greeks believed in the exceptionality of their nation as well. This was not warmly received nationally. The questioning of his belief in American greatness was a recurring topic during both of his mandates.

The author pays attention to foreign policy, which is different from the focus of this dissertation — the U.S. relationship with International Law. But her work on exceptionalism is nonetheless of great help. Restad has two arguments in her book. First, “that American exceptionalism is a meaningful and helpful way of defining the elusive category of American identity.” (Restad, 2015, p.2). Exceptionalism is not an objective truth, but a subjective self-understanding. Second, that “the belief in exceptionalism has had a deep and lasting effect on how the United States relates to the world.” (Restad, 2015, p.3).

Restad defines exceptionalism as a national identity, made up of three important ideas. “Each idea represents a different aspect of the perceived historic significance of the United States and inspires a certain kind of foreign policy, all of which are internationalist in orientation.” (Restad, 2015, p.3). The first idea is that the United States is distinct from the Old World. Distinct in this context does not mean ‘different’, like Lipset understood. It refers to a normative hierarchy of nations that has the U.S. at the top. It is a view of the U.S. as better than all other nations. “If one does not believe that American exceptionalism means better rather than different, one’s Americanness is open to questioning.” (Restad, 2015, p.4). Obama was criticized for his answer about American exceptionalism because it conveyed an understanding of it being a subjective idea, and not an objective fact. The identity-affirming power of the United States being seen as better, and not different, can be traced back throughout the history of the country.

*American exceptionalism entails believing that the founding of the United States inaugurated a new era in world history, where a completely new and different political entity entered the world stage. This belief in U.S. distinction is powerful, persistent, and pervasive and as alive today as it was in early U.S. history. Polling shows that Americans display the highest degree of national pride among Western democracies. [...] In 2010, Gallup<sup>10</sup> reported that a huge majority of Americans (80 percent) agreed with the statement “the*

<sup>10</sup>American analytics and advisory company.

United States has a unique character because of its history and Constitution that sets it apart from other nations as the greatest in the world.” The fact that such a question was even asked by a polling bureau speaks volumes about the pervasive belief in American exceptionalism (Restad, 2015, p.5, emphasis added).

The second idea is that the United States has an unique and special role to play in world history. This sense of mission is a constant trait in the national narrative, and has helped presidential discourse on foreign policy projects since the American Revolution in the eighteenth century.

The special role of the United States is often especially prominent in presidential rhetoric. Here, it is always *the United States that is used as the model for the world, rather than the other way around*. In fact, in a quantitative study of presidential State of the Union speeches from Franklin D. Roosevelt to George W. Bush (between 1934 and 2008), Rico Neumann and Kevin Coe found only three instances of U.S. presidents holding up foreign countries as exemplars for the United States. Of 2,480 mentions of other nations, only Britain’s persistence in the fight against Nazi Germany (FDR, 1942); Sweden’s health care system (John F. Kennedy, 1963); and Japan’s educational system (Ronald Reagan, 1983) were worthy of mention as examples for the United States to follow. *In other words, the foreign policy consequence of the second aspect of American exceptionalism is that the United States leads, while others follow* (Restad, 2015, pp.5-6, emphasis added).

The third idea is that the United States will withstand the laws of history, and be the only one to ever do so.

Whereas nations, empires and countries that have risen to power inevitably fall, [...] the United States will not. The proof of this is in the superior American pudding. First, the United States won over the most powerful empire of its time (Great Britain); then, it successfully conquered a continent (vanquishing native populations as well as thwarting European imperial designs); furthermore it extended across the oceans – showing yet another powerful empire (Spain) the door out of the western hemisphere; and finally won two world wars over various incarnations of Germany that allowed it to establish an international order over which it ruled. With the end of the cold war, American exceptionalism was vindicated

seemingly for all eternity: The United States had proven itself to be that special nation that shall lead all other nations toward the “end of history.” (Restad, 2015, p.6).

The attack on the Twin Towers did not shake this belief. The War on Terror was a civilization battle, with the leader of Western civilization — the United States — representing the ‘good’, and radical Islam representing the ‘bad’. As said previously, presidential rhetoric commonly uses exceptionalism, explaining why president Bush cast the War on Terror using these terms, portraying the U.S. response as coming from innate goodness to set other nations free, and not as foreign policy.

This belief in America’s eternal rise to power as an exceptional nation was established prior to the impressive increase in American power and influence in international politics exhibited in the late nineteenth and early twentieth century. This strongly suggests that an exceptionalist vision was not promoted as a cynical rationale for gaining territory and influence at this later time (although I do not deny there exists a complex interrelationship between rhetoric and action) (Restad, 2015, p.6).

Restad also defines American behavior as unilateral internationalism, “meaning that the United States has always been internationalist (engaging with the world politically, economically, and militarily) but has preferred to conduct its foreign policy in a unilateral, rather than multilateral, manner.” (Restad, 2015, p.3). Multilateralism and the role of the U.S. in the international system will be discussed in the following chapter, but it needs to be said that the Restad definition is distinct and new from others accounts that will be shown, such as John Ruggie.

There are two main dichotomies that are considered to be the conventional understanding of American behavior: isolationist/exemplary or missionary/internationalism (or interventionism).

If we think of the two faces of American exceptionalism – exemplary and missionary – as the heads of coins, we can imagine the tails of the coins being their respective foreign policy traditions. Isolationism is the tail of the exemplary coin. It was the foreign policy purportedly espoused by the Founding Fathers and meant that the United States was reluctant to involve itself in the outside world, content instead to nurture its own superior political experiment, and satisfied to serve as an example for the world to emulate.

It was, in other words, how the exemplary identity was expressed in foreign policy. Internationalism, on the other hand, meant an active involvement in world affairs, acting out the world historic mission given to the United States. In other words, it is the tail of the missionary coin – how the missionary identity was expressed in foreign policy. An internationalist foreign policy is commonly said to have “won” over isolationism after the so-called “turn-around” in U.S. grand strategy from isolationism to multilateralism with the events of World War II. [...] The exemplary/missionary identity and the isolationist/internationalist foreign policy depictions share a powerful underlying assumption: American exceptionalism (Restad, 2015, pp.7-8).

Restad rejects these dichotomous views. She believes that the ideational force that informs U.S. behavior is American exceptionalism since the founding of the country. Therefore, instead of ‘exemplary’ or ‘missionary’, American identity is better understood through the concept of American exceptionalism. This understanding of American identity subsumes the ideas of ‘exemplar’, ‘missionary’, and even manifest destiny.

To deal with national identity is slippery, Restad says, partially because national identity should be seen as a variable, not a constant. The view the citizens have of their nations is subject to change often. But following constructivism, Restad argues that there are unquestionable benefits to consider national identity when studying foreign policy, for its help in understanding preferences and how interests are defined.

I argue that the American identity as exceptional constitutes the “national interest” and pushes U.S. foreign policy in the direction of unilateral internationalism as opposed to multilateral internationalism. While acknowledging that “national identities” are subtle, complex, and even somewhat malleable, I still hold that, when examining collective self- understandings vis-à-vis other nations in the context of foreign policy, it makes sense to speak of national identity. I choose to operationalize “American national identity” in the context of foreign policy as “belief in American exceptionalism” (Restad, 2015, p.14).

American politics, culture and history are all permeated by American identity. Although the exceptionality of American identity and the mission to remake the world are not static, but have gone through stages and faced

challenges, the narrative of the originators of exceptionalism — John Winthrop and the Puritans, with a legacy that is real or imagined —, echoes through centuries of U.S. history.

Americans believe they are a superior people, they believe they are endowed with a unique mission, and they believe they will never succumb to the merciless laws of history. American identity can be meaningfully defined as American exceptionalism because, notwithstanding its debatable objective validity, the belief in American exceptionalism has been a powerful, persistent, and popular myth throughout American history. It is this belief, I argue in this book, that constitutes, informs, and shapes U.S. foreign policy. The belief in American exceptionalism permeates American society. It is found among the general population, its political representatives, in the media and in academia. This kind of national identity often operates in subtle ways (Restad, 2015, p.14).

American exceptionalism means two different things in academia. It means objective distinctiveness in American studies and comparative politics. Restad argues “that the very idea of an objective — as opposed to an ideational — definition of exceptionalism is nonsensical. Why use the term ‘exceptional’ if one does not mean normatively superior? American exceptionalism cannot simply mean different, because all nations are different.” (Restad, 2015, p.17).

Although Lipset assured that his book did not argue that the U.S. was culturally superior, he was writing — in his words — as a proud American. “Trying to design social science studies based on the assumption that the United States is somehow more different than other countries is itself an exceptionalist undertaking.” (Restad, 2015, p.17).

The distinction between literature treating American exceptionalism as an objective category to be compared to other countries and the normative perspective that sees American exceptionalism as connoting an inherent U.S. superiority is rather blurry. Most often, one sees the two categories bleeding into one another: The United States is normatively superior to other nations because of its genius political institutions, focus on individual liberty etc (Restad, 2015, p.18).

There is no normative judgement in Restad’s work, since she believes it to be impossible to evaluate if the United States is or is not exceptional in the ideational way. She will not argue whether U.S. exceptionalist behavior is good

or bad. It is also not exceptional to believe one is exceptional, so the U.S. is not exceptional for thinking this way. “What is important here is the fact that the belief in exceptionalism has been strong and persistent throughout American history, and has had an enduring impact on foreign policy, notwithstanding the validity of its underlying assumptions.” (Restad, 2015, p.18). When referring to American exceptionalism, Restad refers to the idea, not an objective or category of comparison, and “to argue for the existence of something is not the same as endorsing it.” (Restad, 2015, p.17).

In *American Exceptionalism: A New History of an Old Idea* (2022), Ian Tyrrell contextualizes the term exceptionalism in public debate the same way as Restad (2015). Starting in 2009 with Barack Obama’s answer in Strasbourg, with him continuously being accused of being an enemy of American exceptionalism, and the 2012 presidential election when the term became part of the Republican Party platform. Tyrrell points out that the first president to ever use the term was Obama. And soon after, Republican politicians made it a common occurrence. Part of the political debate,

exceptionalism ceased to be an obscure academic concept; adherence to its tenets became a measure of individual conformity to national patriotism. Exceptionalism had morphed into an ideology reflecting and shaping a social and political worldview, and through which public policy would be refracted (Tyrrell, 2022, p.2).

For the author, scholars seem to underestimate “the resilience and the cultural sway of this concept for the American people.” (Tyrrell, 2022, p.3). There is a historical interpretation on the meaning of American history that provides the public a blend of patriotism and exceptionalism. “Just because something cannot be verified as fact or seems old-fashioned as an idea in cutting-edge scholarship doesn’t mean its hold is diminished.” (Tyrrell, 2022, p.3). It is a contested idea, and still of great importance in the current American political context.

Tyrrell sees American Exceptionalism as an ideological “ism” as a recent phenomena, and “the idea behind the term was shaped by political forces and subject to conflicting interpretation and shifting meanings.” (Tyrrell, 2022, p.3). He makes a distinction in his text: ‘Exceptionalism’, capitalized, is the current ideological and political iteration; ‘American exceptionalism’ is the more general set of ideas that underlies American society and politics before the term was even created. The idea of the country being exceptional can be found in the early republic, though the term was not invented then and they used other formulations.

American exceptionalism as a clearly articulated concept and term dates only from 1929, but it has since the beginning of the twenty-first century been used to describe an idealized version of the American past. There is every reason to suggest that there were earlier variations of the notion equally subject to human construction and manipulation. In other words, *American exceptionalism is a historically contingent and slippery idea. No fixed or pure entity called “American exceptionalism” has ever existed. It is always buried in its historical context. This is both its strength as an ideological and political weapon and its weakness as a guide to interpret the world.* This malleability does not make it unimportant, however, because the idea has deeply influenced behavior. It can even be argued that “America”—understood for the purpose of this book as the United States—has been exceptional only because so many have believed it to be so. But the internal coherence of that belief and its changing valence over time require close inspection (Tyrrell, 2022, pp.3-4, emphasis added).

The doctrine of exceptionalism sets the U.S. as not only unique, since every nation is unique in their own way; but also that the U.S. would be outside the historical path other nations are following—these follow historical laws and norms. For Tyrrell, exceptionalism is an ahistorical doctrine: the origins and meanings of the United States are located outside the course of time, it is incomparable to others, and also have unchanging core values and characteristics. “‘America’ may become a better, bigger, and greater nation, but its major ideational structure cannot be changed. This is what may be called a historical involution, rather than evolution, as it occurs within these parameters, constantly striving to improve upon itself.” (Tyrrell, 2022, p.5).

Different from the other authors, Tyrrell offers that the term emerged from Marxism, in an attempt to explain why the United States lacked socialist parties and communist ideals<sup>11</sup>. It was not a compliment because it meant an American deficiency. The author also has a similar view to Restad’s distinction of exceptionalism in academia, although he does not have a lot to say about the choice of the term. Tyrrell says:

Until very recent times, it was not a piece of self-congratulatory rhetoric but an analytical way for academics and progressive intellectuals to explain key features of American history and politics.

<sup>11</sup>Closest to McCoy’s (2012) account of Joseph Stalin being the creator of the term, as shown in the introduction.

It did not necessarily mean the history of the United States was perfect or superior in its achievements, or that its characteristics had to be understood as positive. To be exceptional was, above all, to be superior in intention and promise — and, in its purest formulations, to have a special place in the world's progress (Tyrrell, 2022, p.5).

Americans carry the ideology, and the American nation-state is its concrete expression. “Modern U.S. exceptionalism is not a class ideology but a national one that frames how Americans judge their nation against ‘the world.’ All nations develop nationalist ideologies of one sort or another; the American variety is a version of national exceptionalism.” (Tyrrell, 2022, p.5).

Although many scholars see the concept as being dated in the English settlement, Tyrrell sees British America as not being able to bear this type of nationalism. It was only possible to create a national exceptionalism with the coming of the republic. Since then, the relationship between the state and the people has changed. “What was in the early nineteenth century a loose and grassroots feeling, heterogeneously grounded in (white male) democratic participation, has become a state-sponsored ideology and a patriotic necessity.” (Tyrrell, 2022, p.6).

Exceptionalism was turned into a concrete social practice. Far from being a stable entity, exceptionalism has been subject to contradictions and alternative interpretations. Its efficacy has fluctuated.” (Tyrrell, 2022, p.6). It was not imposed on people by an elite, but it was made, and the belief emerged out of experience.

This process was an intensely political matter. The growth in exceptionalist doctrines to an intellectually dominant position occurred in response to political controversies and challenges generated by the American Revolution's aftermath. Apart from the external environment of wars, revolutions, and political upheaval, an ensemble of institutions became crucial to solidifying it. Schools, textbooks, churches, courts, and voluntary associations developed what amounted to the sustaining elements of an exceptionalist ideology. Its concrete expression was a creed of national beliefs, values, and ideals. [...] The means for imparting exceptionalist ideas were as varied as creative literature, songs, hymns, anthems, and so on but especially Fourth of July and other patriotic orations in the period of the early republic, the sermons of clergy, and the addresses of historians and other literary people. The creation of American

exceptionalism was not the property of — or under the control of — any one group. The processes involved both state and society; indeed, the boundaries between these two domains were fluid through much of American history, but Americans did not control all (Tyrrell, 2022, pp.6-7).

Tyrrell explains that the doctrine of exceptionalism was shaped through comparisons of the U.S. with Europe, with European views also influential. This relates to Hodgson's argument of the role European civilization had in American society, and Lipset's view of foreign comparison work being of great importance to define the U.S. Tocqueville, as other foreign writers, did not see the U.S. with such a positive light as it is commonly portrayed, but Americans tended to assimilate negative accounts of foreigners, changing the terms into positive ones. Another point Tyrrell converges with Lipset is what he calls 'anti-governement sentiment', that puts government as the illness of a nation, and the people are responsible for its survival — and success.

It is important to say that

[n]ot all Americans have seen their nation in exceptionalist terms. An anti-exceptionalist pushback against the overreach of American mission has been common enough. Anti-imperialism has been a recurrent example, parts of the abolitionist critique of American slavery another, and the economic and political upheavals of the 1970s a more recent case. Striking is the extent to which individual Americans have vacillated between the two positions. Depending on historical events and individual circumstance, the same Americans could be for or against exceptionalism. In part, this behavior reveals the complexity and variability of the ideology. But it has also reflected in many cases a call to reclaim the nation's exceptionality from the prospect of defeat (Tyrrell, 2022, p.9).

Moreover, other concepts have been used interchangeably with Exceptionalism, but although they helped to support Exceptionalism, they are conceptually different and less powerful. 'American Way' is bound to the geopolitical crisis in the mid-twentieth century, lacking the capacity Exceptionalism has of applying to the U.S. across time, regardless of foreign ideological threats 'American Dream' is not an interpretation of the core values in American history, being more ephemeral and more materialistic. 'American Creed' is only part of American exceptionalism, expressing the specific ideological and political content of the latter concept — individualism, egalitarianism, democratic and liberal values.

As an idea framing public debate, exceptionalism's meaning has changed repeatedly over time, sometimes stressing political issues, at other times material ones, and at still others religious ones. [...] Whether conceived as a modern consumer society, the availability of resources, opportunity for social mobility, or the processes of frontier expansion, it underpinned the other values of freedom, democracy, and religious chosenness. [...] The idea of exceptionalism has been pushed more insistently, while certain material conditions seem less and less exceptional as globalization, urbanization, and modernization have reduced national differences among many countries. [...] *Exceptionalism must be considered not as an account of American "reality," but as an ideology representing reality.* Whatever its theoretical, logical, and empirical weaknesses, exceptionalism is still a useful concept for political purposes, more so than others. It expresses a sense of the United States in which a noble ideal of human freedom is rendered coterminous with a specific place and nation-state, while not excluding any group within the nation (Tyrrell, 2022, p.12, emphasis added).

American exceptionalism is a blend of myth and social experience. This means that the ideology does not come from one moment, but from a gathering of the nation's experience with different myths.

The result is not a single foundational story about the American past but rather a changing cluster of myths that reflect and refract historical experience. The collective content is flexible enough to withstand the empirical refutation to which a single modern myth might be vulnerable. American exceptionalism is founded not on one but on three central pillars, regarding religious, political, and material conditions. Not simply an amalgam of these three, the pattern is more like an experience in mix and match. At various times, particular aspects have been stressed or joined (Tyrrell, 2022, p.17).

The division of American exceptionalism as a moral example or missionary intervention is too simplistic. The moral example can be promoted passively or actively. Intervention may or may not involve material influence. Tyrrell quotes Hilde Restad, in agreement to her critique of this dichotomous view.

Any attempt to divide exceptionalism into these dichotomies either restates the equally simplistic political alternatives of isolationism

and internationalism or fails to account for contradictory impulses within the notion of exceptionalism (Tyrrell, 2022, p.18).

At last, Tyrrell argues that it is necessary to understand exceptionalism. Not only because it is important to understand American identity, but because this ideology guides and structures how American political figures and opinion makers understand the world.

The trope of exceptionalism has been adapted to fit numerous situations for which it was never intended. Social scientists have used it to conceive how other nations fit into American values, or not. They have developed social surveys to rank foreign countries on measures of freedom, equality, and belief in individualism and religion, but they have also used the language of exceptionalism to typecast these other nations as rigid, tradition-bound, and incapable of true progress. In these terms, the United States is the nation of modernity above all others. It has been able to advance as a modern nation because of its attributes of exceptionality, typically understood as markers distinguishing it from less desirable qualities manifest in countries that could not break the barrier into modernity (Tyrrell, 2022, p.18).

### 2.3

#### **The Conceptual History of exceptionalism: tentative answers and conclusion**

Section 2.1 presented a list of questions that helps to organize an analysis based on Conceptual History. This section analyses the three contexts based on the questions, except for the eighth question (*‘what is the value of the concept in the structure of the political and social language of the time?’*) since it is beyond the scope of this dissertation and is left to be explored in future work.

The first question is *‘how common is the use of the concept?’* The use of the concept increased over time. Its use as a practice is overly common, as argued by all the authors in respect to the importance of exceptionalism for American society — whether is their identity or politics. The utilization of the concept is more common since the Cold War, with increasing popularity through the dissolution of the Soviet Union, 9/11, and Obama’s first election. But it is important to remember that, as pointed out by Hilde Restad (2015) and Ian Tyrrell (2022), in academia the concept was vastly common before it was something ‘known’ to the public.

The second question is *'has its meaning been the subject of dispute'*? It was seen that yes, considerably. The meaning of exceptionalism has not been settled; there is no single meaning or a consensus of its meaning, even among those who are critical of the term. For Seymour Lipset (1996), it is a national and political ideology. For Deborah L. Madsen (1998) it is also a national ideology. Godfrey Hodgson (2009) calls it a belief, a doctrine and a tradition. Natsu Saito (2010) considers it an ideology, but also a narrative. Michael Ignatieff (2005) calls it behavior. Hilde Restad (2015) considers it a national identity<sup>12</sup>. And for Ian Tyrrell (2022) it is a concept, turned into an ideology, a general idea, and a political discourse tool.

What exceptionalism means also varies. Lipset sees it as a double-edged sword, that puts the U.S. as having qualitative differences, being the best of the best, and the worst of the worst. He is not opposed to the idea or the term. Madsen's definition of exceptionalism is that it represents the distinctiveness of the United States as being the most powerful nation, with a mission of leading and being an example for the rest. She is not saying that exceptionalism is good or bad, different from Lipset that is saying that it is good and bad. Her work aims to provide a historical account of the concept focusing on the Puritan aspect. Hodgson's arguments are similar to Madsen's, with the huge difference of him being extremely critical of the concept as a practice. It is a moral difference that puts the U.S. at the top of an hierarchy, and all the things that make the U.S. more powerful, being products of historical circumstances, serve as further proof of its exceptionality. The more the doctrine of exceptionalism achieves and earns, the stronger it gets because of these gains — in material and social terms.

Saito defines it as an ideology that embodies freedom and democracy, providing the country — its civilians and politicians — with good enough reasons to act on the exceptionalist ideology. As a narrative, exceptionalism is absorbed by people as historical proof of the idea of superiority. For Ignatieff, exceptionalism is the behavior of the U.S. towards human rights, guided by a paradox of national interest and messianic mission, when it comes to acting on the international system. He points out the idea of a distinct American society, that it feels superior to others, and that the country acts through the paradox in order to grant itself the power to act above rules or to not act, despite the rules. It is similar to Saito's critics of American exceptionalism, but he does not judge if it is good or bad like her and. Ignatieff is worried in explaining the (exceptionalist) behavior towards human rights, which also explains the

<sup>12</sup>In chapter three, other works from Hilde Restad will be presented, showing slightly different interpretations of exceptionalism by the author.

absence of common understandings from the four previous authors as to what exceptionalism means.

Restad uses exceptionalism as a national identity because it helps her analysis on foreign policy. Although having a different focus on the research in comparison to the others, just like Ignatieff, she has more in common with the rest, and less with Ignatieff. The characteristics that make this national identity are based on the superior belief of distinctiveness of the United States in comparison to other countries, and they are assumed to be better than others due to presumed exceptional history. Both Restad and Tyrrell point out that exceptionalism indeed has an academic meaning, which is different from the one they and this dissertation are looking at. But Tyrrell's definition of exceptionalism is more complex, in the sense that it has many layers and the author emphasizes how historically contingent and slippery it is, having no fixed meaning. The essence, however, stays the same. They are not only unique — The United States is outside of the realm of norms and rules that other nations exist. But how it is used and its specificities change.

The fourth question is '*in what historical contexts does it appear*'? and the seventh question is '*how long has it been in use*'?. It is not possible to give a precise answer to when it first appeared — even this is contested. What is agreed upon is the role of history in the concept of exceptionalism, regardless of the definition. It can be said by some that it made an appearance in the British settlement in the eighteenth century. Others might argue that it appeared also during the American Revolutionary War. With more consensus, it appeared in the context of both world wars, but on a minor scale in comparison to the Cold War. After its end, it was also of common appearance. Some see the Cold War as inventing the concept, and with its end, the final concretization of its ideas. The terrorist attacks on 9/11 are also a historical moment where the concept was strong, and also throughout the War on Terror and Barack Obama's both mandates. It seems that it commonly appears when the United States is in a position of having to justify or prove its power, and it has been used with the term 'exceptional' at least since the twentieth century. A crisis in the liberal order is a propitious time for this to come back, as it will be discussed in the two following chapters, but especially the last one.

The third question is '*what is the social spectrum of its use*'? and the sixth question is '*by whom is it used, for what purposes and to whom is it addressed*'?. Regardless of the definition, there is a consensus that exceptionalism does something to American society. It can inform their national identity. It can provide certain content to them in order to gain domestic endorsement for whatever actions are politically desired. It can also serve as the source for

anti-international, nationalist, or savior behavior and feelings. Scholars might use the concept in comparative work between the United States and another country, or to explain the concept and present critiques on it, or present it as true. The academic use has an overall academic purpose. However, it is difficult to set apart the political aspect of exceptionalism in academic environments — whether the national author is defending exceptionalism as a good thing and justifying U.S. actions with it, or the foreign author is criticizing exceptionalism while praising their nationality.

There is also, of course, domestic political use — used by political actors, and also scholars involved in politics<sup>13</sup>. The political use of exceptionalism is commonly a positive one, and the concept is not normally used by other countries as a critique in international politics. But domestically, it serves a purpose of giving American society a particular story, that serves to better understand the country, to strengthen the support of the nation, and to maintain the ideals behind the concept. With its relationship with different wars or tense situations, it has sometimes been used internationally in order to present the U.S. as the good or right side that other countries should back up. Whoever was not on the U.S. side on the War on Terror, that stood for moral and goodness, was supporting terrorists.

Finally, the fifth question '*what other terms does it appear in relation to, either as a complement or as an opposition*'?, the ninth question '*with what other terms does it overlap*'? and the tenth question '*does it converge over time with other terms*'? can be answered together. Several terms are related to exceptionalism. 'Freedom', 'democracy', 'mission', 'Puritanism', appear multiple times, all complementing the idea. 'American Way of Life', 'Americanism', 'Americanness', 'American Creed', 'American Dream', 'Manifest Destiny', also appear a lot, though they are more of a particular term chosen by an author to further exemplify or to use as interchangeable. Sometimes it also overlaps with these terms, and has been converging with them for a long time.

Groups of political and social concepts defined by Koselleck were presented before and how exceptionalism fits into them is complex. The groups are based on their different temporal changes, and can be "traditional ones whose original meaning is always recovered, concepts whose meaning has changed, such as history, and neologisms." (Bentivoglio, 2010, p.127). Tyrrell said that

<sup>13</sup>It has not been explored in this work the allegedly split of positions by Republicans and Democrats over American exceptionalism. As it will be shown, it is a concept with no party, although some consider the Democrats as against it. For this, see: Ceaser, James W. *The Origins and Character of American Exceptionalism*. *American Political Thought*, Vol.1, No.1, 2012, pp.3-28. Understanding American exceptionalism the way it is argued here, as made of different interpretations, to define it as part of solely one party means to overlook many of its characteristics that are not particularly bound to (perceived) conservatism.

exceptionalism is an ahistorical doctrine, but it could perhaps be seen as a concept with no linear history. Since it is not linear, it is hard to pin exceptionalism into one of the two first categories. Exceptionalism can be seen as a traditional concept, since its original meaning is commonly recovered, despite being criticized or not. It means that the U.S. is exceptional. However, if one considers the definition of exceptionalism as not meaning qualitative difference, it already implies the original meaning has changed. All the different definitions presented in this chapter can be seen as distinct meanings, or different enough to just slightly change things, while rescuing the original meaning. Even the authors used here are not in agreement whether exceptionalism changes or not. In the end, this dissertation will not offer an answer for such definitions, and where exceptionalism fits into these categories is a matter of interpretation.

A great consideration Ignatieff gives is that “any evaluation of American exceptionalism fundamentally expresses a certain preference for a certain type of America.” (Ignatieff, 2005, p.25). He gives as an example the following:

Those who wish America were less exceptional are actually expressing the desire for it to be a certain kind of good international citizen, one bound, despite its exceptional power, by multilateral definitions of appropriate state responsibility toward its citizens and rules relating to the use of force against other states. The virtue of this multilateral identity is that it would make America more attractive to itself, a benevolent superpower voluntarily restricting its sovereignty for the sake of the greater global good (Ignatieff, 2005, p.25).

However, other examples can be listed. Hodgson (2009) saw America as an example of a society, culture and politics. He indeed says that he was always bothered by the missionary trait of Americans, but he only turned critical enough on exceptionalism to write a book about it years later of him first noticing that something was off. In his book it is noticeable that he has a vision of what America should be, and the strand of exceptionalism being propagated is not it. It is important to keep in mind that all the authors used in this chapter have a preference for the United States they wished existed.

As said previously, the profile of Hodgson was provided for a reason. The author excessively connects American history to European history — which he considers to be world history. It seems extreme to portray American history this way. The author states that it is not his intention

to diminish the importance or the originality of the great developments that led to the emergence of the United States as a great world power by the end of the nineteenth century. I would merely insist that the United States did not emerge like Athena from the brow of Zeus, or by a kind of geopolitical virgin birth (Hodgson, 2009, p.20).

Yet, it does seem that he is diminishing the U.S., while praising Europe. It has to be noted that although Hodgson says that he identifies with American culture, he did not cease to be British. The same way he points out that Americans are taught a certain story about their country, and develop feelings influenced by these stories, Hodgson is a product of British education. This does not mean that his ideas are based on a grunge or old resentment of a colonizer towards its former colony. Hodgson is always reminding his disgust for imperialist pretensions. But it needs to be acknowledged that, as he said, all countries have myths and believe in their exceptional history. He is not exempt from this.

Besides having a preference for what the United States should be, Hodgson is part of the world where the social-political phenomena of American exceptionalism happens, something Berenskötter argues and that was said at the beginning of this chapter. Every author used here cannot detach themselves from their reality. All of them have individual experiences and whole different lives that leads them to think the way they do. This is in no way a criticism only for Hodgson. He was chosen to exemplify this for his deep criticism of exceptionalism, but lack of self-awareness of him being British. The same happened with Lipset, as mentioned by Restad. He was a proud American, after all, and it is naive to suppose that this did not influence his work. It is not the intent of this discussion to investigate the personal life of the authors used here, but to illustrate that to define a concept as one thing is most likely impossible. To understand a concept, different interpretations should be accepted.

## **2.4**

### **Summary**

This chapter used Conceptual History and a structure of specific questions to analyse the interpretations of the concept of American exceptionalism by different authors. Concepts are an important object of study, because they are not only linguistic phenomena, but rather, part of our social life. After discussing the importance of concepts and how they can explain the world, 'exceptionalism' was presented as a powerful concept for American society.

Next this concept will be used to analyse the relationship between the United States and International Law.

### 3

## The United States and International Law

America began and continues as the most anti-statist, legalistic, and rights-oriented nation (Lipset, 1996, p.20).

The way how the U.S. relates to IL is deeply connected to the role of the U.S. in the development of the so-called Liberal International Order (LIO). IR literature defines U.S. role as benign or coercive hegemon, or modern empire, depending on the theoretical perspective, as it will be discussed. This dissertation argues that another key element to understand the U.S. role in the LIO is the concept of exceptionalism.

This dissertation does not intend to depict the U.S. as an outlaw in IL, because as argued by some authors in this chapter, all states violate IL. However, the U.S. is not like all other states and this chapter tries to show how complex this relationship is. It is not possible to consider the position of the U.S. in the building of the IL without considering the liberal order it also helped to establish, or its hegemonic position, as well as the concept of exceptionalism as a justification and driver.

Section 3.1 discusses how the U.S. was involved in the development of the LIO. The next section, 3.2, focuses on the question of hegemony, if the U.S. should be seen as a hegemon or a modern empire, and section 3.3 focuses how the U.S. relates to the International Law. The chapter ends with a brief summary.

### 3.1

#### The U.S.-led order

By the end of World War II, a political, economic and strategic order was created by the United States and its allies — Western liberal democracies such as England and France — seeking to solve the problems that had led to depression and world wars. It is commonly understood that we are still living in this order today, despite some changes in its characteristics, and that it may be changing even more. This order is called global order, liberal order, or Liberal International Order — a term used by defenders and critics. Even for those who are critical of the order, it is a shared vision that this order propagated

the U.S. hegemony. What is mostly disputed is how this hegemony came to be and the key characteristics of this order. It is also a consensus that this order is in crisis — hence the possibility of even deeper changes. Depending on how the authors position themselves about the LIO, the causes, consequences, and solutions they offer vary.

For Daniel Deudney and G. John Ikenberry (1999), the LIO has a few main dimensions: (a) co-biding security, which mitigates the dynamics of anarchy in an attempt to overcome it; (b) penetrated reciprocal hegemony, where the hegemonic role of the U.S. is maintained because the system needs it, not being a coercive hegemony, but mutual and reciprocal, which increases its legitimacy through access and shared decision-making; (c) semi-sovereignty and partial great powers, which is a mechanism for incorporating problematic states, letting them be part of the order, albeit under certain conditions, such as Japan and Germany at the end of World War II; (d) economic openness which gets rid of comparative advantages and creates interdependence, seeking greater equity in the economy aiming for cooperation and peace; and finally, (e) civic identity, which moderates conflicts and facilitates integration, creating a sense of community and shared identity through the essential components of the order.

Ten years later, somewhat differently from what he had written in 1999 with Deudney, Ikenberry wrote that the LIO, its ideas and real-world political formations, were not embodied in a group of fixed principles and practices.

Open markets, international institutions, cooperative security, democratic community, progressive change, collective problem solving, shared sovereignty, the rule of law - these are aspects of the liberal vision that have made appearances in various combinations and changing ways over the decades (Ikenberry, 2009, p.71).

There would then be common aspects, but they would always be present in the order in different ways, constantly changing. And historically, the most important major transformation in world politics over the last two centuries would be the strengthening of liberalism. Meaning "the extraordinary rise of the liberal democratic states from weakness and obscurity in the late eighteenth century into the world's most powerful and wealthy states, propelling the West and the liberal capitalist system of economics and politics to world preeminence." (Ikenberry, 2009, p.71). The author discusses the non-fixed aspect of LIO and the rise of liberalism to propose the idea that there have been three versions or models of LIO, 1.0, 2.0 and 3.0.

The first is associated with the ideas that Woodrow Wilson and Anglo-American liberals brought to the post-World War I international settlement; the second is the Cold War liberal internationalism of the post-1945 decades; and the third version is a sort of post-hegemonic liberal internationalism that has only partially appeared and whose full shape and logic is still uncertain (Ikenberry 2009, p.71).

In its early twentieth century form, the liberal order was defined in terms of state independence, and an international legal order that reinforced norms of sovereignty and state non-intervention. Yet, at the beginning of the twenty-first century, it was the other way around. It was an order marked by complex forms of international cooperation that undermined state sovereignty and relocated the sites and sources of political authority globally. From the start, the U.S. was the sponsor and champion of the liberal international project, but its role in the order has always been distinct.

Indeed, the ways in which America's preeminent geopolitical position has simultaneously facilitated and impeded the operation of an open, rule-based liberal order is a critical aspect shaping the character and logic of liberal order itself. In the post-1945 period, the United States gradually became the hegemonic organizer and manager of Western liberal order. The American political system - and its alliances, technology, currency, and markets - became fused to the wider liberal order. The United States supported the rules and institutions of liberal internationalism but it was also given special privileges. In the shadow of the Cold War, the United States became the "owner and operator" of the liberal capitalist political system (Ikenberry, 2009, p.72).

Ikenberry is saying that the special privileges given to the U.S. came from its position of power. The country was at the top, it was the leader, and it had sort of control of how this order would work, meaning that it also had some control over what the order would build — the international legal system being what interests this dissertation. It is also important to note that despite the name carrying 'international', Ikenberry does acknowledge that it was an international *Western* order or *capitalist* system, meaning that the author does not ignore the bipolar characteristic that endured almost half of the last century.

This line of thinking of the U.S. being special or having a special position was maintained in the authors' work with Deudney and his solo

ones. In another article, Ikenberry defines the LIO focusing on the role of the United States, as "a distinctive type of order, organized around open markets, multilateral institutions, cooperative security, alliance partnership, democratic solidarity, and *hegemonic leadership by the United States*." (Ikenberry, 2010, p.512, emphasis added). And the hegemony of the U.S. as the organizer and administrator of order came about gradually. "The American political system — and its alliances, technology, currency and markets — merged into the broader liberal order." (Ikenberry, 2010, p.512). While supporting the rules and institutions of liberal internationalism, the U.S. obtained special rights and privileges, as mentioned above. What exactly those were, it isn't specified. "Thus, the United States was more than just a powerful country that dominated the global system. It created a political order; a hierarchical order with liberal characteristics." (Ikenberry, 2010, p.512).

Ikenberry argues that after World War II, the U.S. and its partners built a multifaceted international order, organized "around economic openness, multilateral institutions, security cooperation and democratic solidarity.", and that during its formation "the United States became the 'first citizen' of this order, providing hegemonic leadership-anchoring the alliances, stabilizing the world economy, fostering cooperation and championing 'free world' values." (Ikenberry, 2018, p.7). This quote helps to reinforce the idea that the LIO historically does not exist without the United States. What is clear then is that the whole idea of an LIO is inseparable from the United States as leader and hegemon for both Ikenberry and Deudney.

The place of the United States and the West as responsible for the creation of the LIO is not necessarily something that is easy to dispute, and to a large extent this is the consensus among most of the authors used here. This dissertation will not engage with this discussion, but even though the position of leadership of the U.S. and the overall influence of the West in the characteristics of this order are considered here as facts, it does not mean that they were the sole responsible for the creation of the order, and actually other countries, including Latin American countries, e.g. Brazil, might have contributed<sup>14</sup>.

Deudney and Ikenberry argue that liberalism would be universally attractive because it is based on a commitment to the dignity and freedom of individuals. Despite this ideology of diversity and tolerance having emerged in the West, its values have become universal, being used by world leaders outside

<sup>14</sup>See: Long, Tom; Schulz, Carsten-Andreas. Republican internationalism: the nineteenth-century roots of Latin American contributions to international order. *Cambridge Review of International Affairs*, Vol.35, Iss.5, 2022, pp.639-661; Tourinho, Marcos. The Co-Constitution of Order. *International Organization*, Vol.75, Iss.2, 2021, pp.258-281.

this zone, such as Mahatma Gandhi, Mikhail Gorbachev and Nelson Mandela. "And even though imperialism, slavery, and racism have marred Western history, liberalism has always been at the forefront of efforts — both peaceful and militant — to reform and end these practices." (Deudney; Ikenberry, 2018, p.18). Its history is one of always moving closer to justice, thanks to the activism and moral commitment of liberals and allies. The ideas present in the LIO are treated and used as universal ordering liberal principles, which are the foundation for the norms, institutions and practices of this order.

However, liberal and West are not the same thing, they are two separate ideas, even though they are treated as synonyms. And there is a contradiction here, where liberal is treated as both a universal concept and a Western concept, as Marko Lehti and Henna-Riika Pennanen (2020) argue. In the sense of encompassing everything that the liberal order proposes, the use of liberal as both a universal and Western concept means that what qualifies the West as the West is being liberal. But if liberal is a universal value, why is it used to distinguish the West from the rest? Something said in Deudney and Ikenberry's 2018 article relates to this. Shortly after saying that the liberal order is committed to end and reform imperialist practice, as shown in a previous quote, the authors talk about the inability of some states to be liberal democracies, due to a lack of tradition and habit (Deudney; Ikenberry, 2018, p.18). By pointing to the inability of some states to be liberal as one of the causes of the crisis, but also claiming that being liberal is a universal value, while also at the same time saying that not all states in the order need to be liberal for it to work, the authors create a major contradiction that is not resolved in any of their texts.

Other authors, such as Inderjeet Parmar (2018), are more critical, and argue that the U.S.-led order derived from a plan by part of the country's elite, the State Department and the Council on Foreign Relations (CFR), which identified zones that the U.S. needed to avoid radical reform of its economy. "[Z]ones that together encompassed practically the whole world" (Parmar, 2018, p.162). The institutions of Western power were created on the basis of a plan for the architecture of order aimed at U.S. interests, such as the International Monetary Fund (IMF), World Bank, United Nations (UN), Marshall Plan, General Agreement on Tariffs and Trade (GATT), and North Atlantic Treaty Organization (NATO). "CFR and State Department wartime planning was therefore driven above all by a vision of global-imperial leadership exercised by U.S. elites, strongly supported by Britain's ruling elites, via an international order of organizations and relationships." (Parmar, 2018, p.162).

Liberal internationalism, a theory that Ikenberry follows and continues

to develop using the LIO, is less a theoretical explanation of the existing system, and more a legitimizing ideology. For Parmar, the liberal order is a "class-based, elitist hegemony — strongly imbued with explicit and implicit racial and colonial/imperial assumptions — in both U.S. domestic and foreign relations." (Parmar, 2018, p.152). This definition of the order helps Parmar to explain the dissatisfaction of the white middle and working class domestically. Due to the minority rights revolution of the 1960s, technological advances that cut jobs, and the global redistribution of industries, this group moved closer to the Republican party. Dissatisfaction only grew with the status quo of establishment politics, and frustration was exacerbated by anxiety about racial-ethnic diversity and American identity, with the U.S. becoming a society where whites were in the minority<sup>15</sup>. The result was the election of Donald Trump in 2016, the topic of the last chapter.

In foreign policy matters, Parmar's definition helps him explain the difficulty or impossibility of the U.S. accepting a more diverse international order. Sometimes it can be a matter of strategic necessity to accept other nations on equal or near-equal footing, such as nations of the Global South, but the process remains problematic because of the racialized structures maintained by Western powers for centuries. The discussion of the obstacles in the U.S. relationship with IL will return later on.

As a foreign policy theory, liberal internationalism officially

encompasses democratic values, economic interdependence, international institutions as a framework for cooperation in addressing global crises and problems, and the broad promotion of general welfare. Emerging historically from the era of rising anti-colonialism and anti-imperialism, with the United States and Britain in the lead, the US-led order laid claims to being opposed to colonial rule, and in favour of national and human rights, within a system of international power undergirded by rules binding hegemon and others alike. It was promoted not as a continuation of empire by other means, but as a new system based on universalistic principles applicable to all regardless of race, colour or history (Parmar, 2018, p.154).

But for Parmar, in fact, the theory of liberal internationalism

operates as ideological legitimation even when its proponents offer reform; it justifies the status quo. In that regard it differs little

<sup>15</sup>For a deeper discussion see: Brown, Wendy. *In the Ruins of Neoliberalism: The Rise of Antidemocratic Politics in the West*. New York: Columbia University Press, 2019.

overall from other theories like Marxism, for example, or realism. But because it is the principal system of ideas and practices, and ideals, that are used to explain, implement and defend the present international status quo, I would suggest that it elides too much to be fully validated beyond the circle of its proponents. Of course, it explains aspects of the world's functioning; but its interpretation tends to be benign: crises and challenges are explained as resolvable within the system's governing principles through socialization, integration and assimilation (Parmar, 2018, p.155).

Parmar argues that liberal institutionalism is seen in academia as a positive theory of how things really are, being the opposite of ideology. But he argues that it is, in fact, an ideology "because it elides key factors of how the liberal world order really works, and that other theories suggest better ways of explaining the world." (Parmar, 2018, p.155). Liberal internationalism would not be limited only to the countries that built the order and hold the greatest power in it, because the ideas that have been disseminated as universal have won over countries outside this core that want reforms in the order. Even though they accept the order, they do so as to push for a better distribution of global power with the rest of the world. But even if there are such claims, they result in a broad consensus of core ideas about the order, including the universality and leadership of the U.S., giving the order and the country the continued strength "to contain, engage, manage and socialise emerging powers" (Parmar, 2018, p.156).

The author understands that for Ikenberry the U.S. is a fully functional democracy, and he fails to recognize the evidence of power of racialized and class elites. Although he doesn't provide an exact reference to when Ikenberry would say this, the non-criticism of U.S. democracy is not a long way from Ikenberry's idealisation of LIO, seen in all of the author's works used here. Ikenberry's key omissions would be not talking about the class, gender and race bases of the order, and the failure to address the role of violence and war in the construction of the order, such as the Korean War, the rearmament of Germany and the security alliance with Japan. Ikenberry understands that the internal character of the leader of the liberal order has a great impact on the international system he has built, and for him it would be the externalisation of a democratic regime. Parmar disagrees, because as stated above, he omits "the racial, class and gendered character of American historical, economic and political development." (Parmar, 2018, p.159). Like other critical authors such as Siba Grovogui and Anthony Anghie, Parmar offers insights of the LIO problems, and the role of the U.S. and the West in it. His characterization

of the U.S. as an empire or colonial power-alike is part of a discussion of the next section over the hegemony status.

Another author that participates in this discussion, Robert Kagan, argues that the willingness to cooperate as a characteristic of the order came from the relative benignity of U.S. hegemony (Kagan, 2018, apud Lehti; Pennanen, 2020), and does not consider the U.S.-led liberal order to be a natural phenomenon, but rather an anomaly. "It is the outcome of a specific set of events, circumstances, and global power configurations." (Lehti; Pennanen, 2020, p.17). And there are two reasons why the U.S. has managed to shape and defend this order: "first, because of its preponderant military, economic, and moral power; and second, because of the liberal values and norms it has inculcated into the order." (Lehti; Pennanen, 2020, p.18). Kagan is a known Republican neoconservative anti-Trump scholar, that sees the order as partially produced by American ideology and power. While he does not classify the order as an event of Manifest Destiny or a product of American exceptionalism, but takes into account the country's moral, economic and military power and chance, the author also talks about the relative benignity of the country's hegemony, close to Deudney and Ikenberry's idea of a not necessarily bad or evil hegemony. Overall, Kagan considers liberal values and norms to be at best American, at worst Western, a view similar to that of Deudney and Ikenberry on the American "character".

There are other visions of U.S. behavior in international institutions and organizations, and the international order, but what remains resonating between Deudney, Ikenberry and Kagan is the belief that multilateralism and the idea of cooperation was done out of kindness, or out of some positive characteristic of the United States, and not in search of control or hegemony. Although important, Ikenberry's and Deudney's theorization of the LIO has gaps and leaves out important questions. A better understanding of how the order was created and operates serves to better understand how to solve the crisis it faces. A change in Ikenberry and Deudney's limited understanding could have led them to present a more credible cause of the problem and a more meaningful solution. On this basis, the diagnosis and remedy the authors give on what is currently happening to the order will be presented and discussed also in the last chapter.

For the English School, order can be defined as a fact or as a value, and "can be understood in the sense of stable and regular patterns of human behaviour", being "contrasted with chaos, instability, or lack of predictability" (Hurrell, 2008, p.2). But social order also "requires the existence of a particular kind of purposive pattern that human beings have infused with meaning, that

involves a particular set of goals, objectives, and values, and that leads to a particular outcome.” (Hurrell, 2008, p.2). When understanding order in terms of some purposive pattern, the international life can have a different particular set of goals, objectives and values, to create an order that seeks to avoid mutual destruction, but also to have a relatively peaceful coexistence. As presented before, this was the goal with the LIO.

Hurrell states that inequality is a central fact of international political life, with economic and power inequality being distinguishing features of this life.

[I]t is the political dimensions of inequality that feed most directly into the problem of global political order - first, inequality in the capacity of states to adapt to the many changes and challenges of both the international system and globalized capitalism; and, second, the way in which the structures of governance that have developed within international society both reflect and reinforce the broader patterns of inequality that mark the global system. Institutions are not, as liberal theory often suggests, neutral arenas for the solution of common problems but rather sites of power and dominance. The vast majority of weaker actors are increasingly ‘rule takers’ over a whole range of issues that affect all aspects of social, economic, and political life (Hurrell, 2008, p.11).

Despite not calling the global order as LIO, since he is part of the English School, the inequality problems Hurrell perceives in the global order are quite similar with the critiques of the problems of the LIO, that are somewhat acknowledged by Ikenberry and Deudney as the last chapter will show, but with these two authors failing to actually acknowledge the cause: the order itself. Besides Hurrell’s acknowledgement of institutions not being neutral, he also calls attention to the fact that norms and rules can be also used in favor of the most powerful.

[I]t is important to remember the multiple roles played by norms, rules, and institutions in international life. They may well serve as regulatory rules designed to constrain choices or as the parameters within which individual agents pursue their own preferences. This is the view of rules that lies behind the common claim that international law in relation to, say, the use of force is not able to ‘control’ what states do. Whilst this may very often be true, the critical point is that norms and rules have many other roles and do

much more than this. Norms and rules help explain how actors are constituted: who can act and in what kinds of social and political activities. They help us make sense of the identity of actors and hence of the sources of their preferences. In addition, norms do not simply constrain action and constitute actors but they also enable and empower action. Norms are therefore central to understanding the power to mobilize, to justify, and to legitimize action (Hurrell, 2008, p.18).

Hurrell also offers a critique to liberal multilateralism, that can be understood as a cover for a top-down, prescriptive and coercive character that favors the most powerful.

[C]ollective security had become selective security; the agenda of human rights favoured democracy and civil and political rights but neglected economic and social rights, and ignored calls for greater economic justice; and although economic globalization was heavily promoted, there was little attention to its discontents and downsides. The hard-line hegemonist ‘we can do it alone’ is clearly wrong. But the liberal hegemonist version, ‘we can do it together’ depends on who ‘we’ are, on what ‘it’ is, and what is meant by ‘together’ (Hurrell, 2008, p.283).

This critique of a side of norms that helps the maintenance of the powerful is not a focus of this dissertation, but it is an important point to make when the argument is that the United States indeed had and has more influence over the international legal system. Anthea Roberts (2018) argues that IL is not particularly international in reality, because different national communities of international lawyers build their understandings of IL contradicting the idea of universality of the field, perpetuating forms of difference and dominance. International Law does not exist objectively somewhere, being an abstract and constructivist concept, depending on how its actors construct their understandings and pass it on. This means that IL is a matter of interpretation, with difference and domination also being very much a part of this field.

International Law is a transnational legal field, encompassing a multitude of national traditions, but nonetheless it needs to be recognized that it is constructed “by certain forms of national and regional dominance that betray some of the field’s claims to universality.” (Roberts, 2017, p.8). Although IL poses itself as a field constructed “by drawing equally on people, materials,

and ideas from all national and regional traditions”, in reality, “some national and regional actors, materials, and approaches have come to dominate much of the transnational field and international lawyers’ understanding of the ‘international.’” (Roberts, 2017, pp.8-9).

Certain actors and approaches of particular states and regions dominate certain international forums and flows, leading to a disproportionate influence in the constitution of International Law, that is particularly Western. And these particular interpretations “have come to dominate understandings of the ‘international’ in a way that can make them appear, or allows them to be presented as neutral and universal.” (Roberts, 2017, p.3). Roberts doesn’t believe that one state has a monopoly on defining International Law, but the powerful Western states successfully export their own interpretations, based on their desires and goals, to IL, making the claim of law as universally constructed incorrect. In opposition to this, some scholars argue that the norms of the international legal system are not Western, but Eurocentric, overlooking the U.S. influence on them (Bradford; Posner, 2011).

By considering the U.S. position in the system, and its position in the building of the order and propagation of International Law all argued by Ikenberry, Deudney and Parmar, international norms in the second half of the twentieth century can be mainly understood partially as a product of American interest, culture, or both, or generally Western interest and culture. The process of decolonization, seen as a big step to bring more States into the LIO and into the international legal system being expanded within it, with the U.S. being a great helper in the matter, can also be seen as just another type of colonization — a modern one — as argued by Siba Grovogui (1996) and Natso Saito (2010). The latter will return in the 3.3 section.

Grovogui argues that although self-determination and postcolonial sovereignty are seen as following the procedures of International Law about decolonization, and decolonization is considered as being complete with just the elimination of the legal instruments that gave direct power to a foreign body, this is not the case. The legal instruments that granted decolonization were manipulated by colonial powers to match their own ends and interests. Decolonization was not a right in International Law to repair the damages of colonialism, but an ordered and controlled mechanism for the maintenance of Western power.

In a similar path, Anthony Anghie (2006) defends that the end of formal colonialism, although meaningful, did not end the colonial relations. They were only modernized, with former colonies remaining as subordinates in the international system as economically dependent on the West. This is to say that

even though new cultures were being brought into this order, it doesn't mean they had the space to have a voice or a position inside of it. Third worldism is something to be mentioned, of course, but the focus here is how international norms were not universal, as discussed by Roberts (2017), Grovogui (1996) and Anghie (2006). As mentioned with the LIO, other countries might have helped to build International Law after World War II. Even though it can be somewhat contested, the essence that it was the United States that brought the order to life is key here and the leadership it had in the decolonization process is worth mentioning. This will also return in section 3.3.

It is not the intention of this section to criticize International Law (im)partiality, being an entirely different discussion. But to acknowledge how much 'americaness' is ingrained in it and in the order is crucial to question later how the U.S. steps away from International Law and sometimes from the order. Same goes with the discussion of how the powerful can control or heavily influence most multilateral and international institutions. Not only because they are the most powerful, but also because they are Western powers — the ones that were at least at the front of the creation of these same institutions. All of this is not a critique of the building of the order, but an attempt to make explicit how much the U.S. was involved, to then discuss how and why it wouldn't be that involved anymore.

### **3.2 hegemony or modern empire status**

This section discusses the position of power of the U.S. in the global order. During the Cold War it shared with and competed for the super power status with the Soviet Union, and in the 1990s it held the position of an uncontested hegemon or empire. Or at least, one that could not be successfully contested. This position granted the United States the power to control, or heavily influence, the international order, with it being called LIO or not, in a way that its interests were propagated and taken into consideration when positioning themselves in international institutions. The United States played a key role in the building of modern International Law. On the U.S. hegemony and participation in the LIO, Ikenberry says that a legitimate order is one in which states cooperate voluntarily (Ikenberry, 2011, p.116). And as Deudney and Ikenberry (1999) argue, the LIO has too many consensual and reciprocal relationships to be explained as the product of equilibrium and hegemony. But to understand the order as extremely peaceful, as the authors do, is a mistake for Parmar (2018). The author points out that Ikenberry and Deudney mostly ignore the question of imperial power.

The United States, and the western order it built, is characterized as a pluralistic liberal market democracy that is broadly inclusive and tolerant of ethnic diversity. The US-built security community exhibits its leading state's internal character as a plural one and, very significantly, one in which the United States is bound by rules. Yet liberal internationalists' underlying assumptions effectively deny the findings of numerous well-researched studies challenging American democracy's principal claims. As far as Ikenberry and Deudney (and many others) are concerned, the 'western idea' is a significant part of the strength of the US-led order. The West, a spectacularly successful 'civilizational heritage', was underpinned by America's New Deal liberalism, and extended globally via Bretton Woods, the Marshall Plan and NATO. In effect, this vision and programme aimed to defuse domestic class conflict and the threat of war through 'activist government, political democracy, and international alliance'. That system is in principle capable of assimilating emerging powers, given the universalism of its values and its tolerance of ethnic differences, although others joining this privileged grouping are expected to conform to its rules and accept U.S. leadership. Western order is exclusive also because special rules apply within its zone of peace. Beyond it, conversely, other rules apply - cruder, neo-imperial and violent, although the implications of this contrast are left unaddressed. By drawing a line around the West, Ikenberry cuts off the rest of the world while addressing questions about the sources of world order which, empirically, lie in a symbiotic relationship between core and periphery. Yet, even within the 'greater' West, Japan and South Korea were not accorded the same treatment as western Europe. The LIO really was conceived and developed as a system of the West and the rest, in a zero-sum game (Parmar, 2018, p.157).

Ikenberry and Deudney's argument is that it is not an empire, even though the U.S. is in a privileged position at the top of a hierarchical political order, because its hegemony would have been built by consensus and delimited by law, shown earlier in this chapter.

Power, which was necessary at the creation, faded away as consensual hegemony developed. This interpretation, of course, elides America's overwhelming military superiority, including in and over Europe. Beyond Europe, however, Ikenberry concedes that American hegemony remained hierarchical, 'with much fainter liberal

characteristics', again closing off an avenue of analytical and empirical analysis that might threaten the intellectual edifice of the LIO (Parmar, 2018, p.158).

Parmar, Ikenberry and Deudney have different views about the U.S.; a modern empire for the first, and a hegemon for the last two, but none of these authors that defend the hegemon definition give as many arguments, or arguments at all, as Andrew Hurrell does (2008). Even though Hurrell sees how institutions are not neutral and that patterns of power and economic inequality are connected to the hierarchy in international life (previously discussed), he is critical of a view that depicts the United States as an empire. He argues that it is analytically more useful for the country to be understood as a hegemonic power, which makes the analysis focus on questions of negotiation, legitimacy and followership. To consider the U.S. an informal empire is to neglect "both the consistently important role of military power and coercion in the evolution of U.S. foreign policy, and the importance of rules, norms, and institutions" (Hurrell, 2008, p.262), that could be seen as the formal side of an informal empire.

Compared to empire, hegemony is commonly seen as a shallower and less intrusive mode of control. Although this is in some ways true, I suggest that U.S. hegemony is complicated by a number of historical and structural forces which have pushed the United States towards deeper and more intrusive involvement and that are likely to continue to complicate the exercise of U.S. power (Hurrell, 2008, p.262).

With the end of the Cold War, the return of the world to a unipolar order brought attention on the implications of a recentralization of a global order, specially the possibility of order through hierarchy, hegemony or empire. As Hurrell states, both empire and hegemony require power, purpose, and political support. The resources of U.S. power were unmatched, militarily and economically speaking.

But it was, of course, the events following September 11 that seemed to provide a much clearer purpose (and perhaps a project), as well as much higher levels of domestic political support for an activist and engaged foreign policy. The emergence of a far starker unilateralist and nationalist foreign policy on the part of the United States reinforced still further the return of the language of empire. As a result, an increasing number of commentators came to talk

of the U.S. role in the world in imperialist terms (Hurrell, 2008, pp.266-267).

As Hurrell calls attention to, 9/11 changed things. It gave more power to the U.S. in a particular sense. More power to do almost whatever the country wanted despite International Law, despite international opinion. Because first, almost no one would want to or could be in its way. And second, many states were not against what the U.S. was doing. It was an emotional national response to a terrorist attack, but it was also a (supposedly) needed response, in order to save the liberal world from so-called rogue states.

Indeed, the accusation of imperialist aspects of its actions grew, since its actions were rapidly interpreted as less fighting for the world, and more fighting for something Americans lost. The rest of the previous quote follows.

And an increasing number (on both right and left) came to defend the virtues of an American Empire - as the policy best suited to the safeguarding the national interests of the United States; as the only possible provider of global security and other international public goods; as the only state with the capacity to undertake the interventionist and state-building tasks that the changing character of security have rendered to vital; and as the essential power-political pivot for the expansion of global liberalism (Hurrell, 2008, pp.266-267).

This relates to exceptionalism since according to him, whatever the U.S. did, acting as a leader, hegemon or empire, it was supported by its citizens. The view of exceptionality was strong as ever, and the end justified the means. They acted to protect them, but to also protect the world because they are the protectors of the world, something discussed in the second chapter. Hurrell says that the feelings 9/11 evoked on Americans, and the actions taken by the U.S., were the pivot for the expansion of global liberalism. This is not a consensus. It will be discussed in the next section how the U.S. can also be seen as distancing itself from International Law shortly after 9/11, and the peak of the expansion was before this event, as argued by John F. Murphy (2004).

The discussion about hegemony is important because as shown in the previous chapter, one of the beliefs or proof of the exceptionality of the United States is that, unlike other countries that once led the world, the United States will not fail. Hurrell states that the “characterization of the United States as an imperial power has always been difficult and contested.” (Hurrell, 2008, p.267). On one hand,

the United States has long held a powerful image of itself as an anti-colonial power, with its rejection of European power politics; its sustained and recurring rhetoric of freedom and self-determination; its decisive role in establishing self-determination as an international political norm; and its direct pressure on the European states to divest themselves of empire from the Dutch in Indonesia to the French and British at Suez (Hurrell, 2008, p.267).

But on the other,

the United States must be seen as a product of European expansion which involved colonial settlement and the subjugation of indigenous and independent peoples. It was territorially strongly and successfully expansionist throughout the nineteenth century - through settlement, purchase, and war (using force over 100 times between 1807 and 1904). Moreover, when it did move away from territorial expansion and conquest, this was only in part because of liberal factors. It is certainly true that liberal concerns played a role - both in terms of the perceived dangers to freedom at home posed by imperial expansion abroad and the difficulty of reconciling the reality of empire and overseas rule with U.S. values. But race and slavery were also dominant factors in explaining the end of southward expansion and in pushing the United States towards new forms of territorial control (Hurrell, 2008, p.267).

Using Hans Morgenthau, Hurrell argues that the expansion of the United States early on did not come from a geopolitical imperative. "For the United States, conquest beyond the limits of the North American continent was from the outset an unavoidable embarrassment rather than the achievement of a national purpose." (Morgenthau, 1960, pp.99-101 apud Hurrell, 2008, pp.267-268). They never rejected the conquest, or when it was the case of territorial rearrangements, "the United States was willing to follow its interests rather than its professed values, opening itself [...] to the recurrent charge of Machiavellian scheming behind a Wilsonian façade." (Hurrell, 2008, p.268). But the United States would have turned away from formal conquest and territorial annexation, and turned towards external economic expansion somewhere in the nineteenth century.

This leads to a discussion about the non-territorial aspects of U.S. power, and with the distinction between formal and informal empire. For Hurrell, although this distinction "between direct political rule (raising flags

and painting maps) and informal economic control (opening economic doors)” (Hurrell, 2008, p.268) is crucial for understanding U.S. power, it has two serious weaknesses. First, it overlooks how consistently the U.S. is willing to use force and coercion to pursue its interests, being this willingness “one of the most important characteristics which distinguishes hegemony from freely acknowledged primacy.” (Hurrell, 2008, p.268). Even in areas where its hegemony was long established, such as in Latin America, the use of force and interventionism were constants. And this didn’t have anything to do with constraints of the Cold War, because “as U.S. relative power grew and as the constraints of the Cold War eased, so its willingness to use force has continued.” (Hurrell, 2008, p.268).

The second weakness is the negligence of the formal aspects of an informal empire. Hurrell defends that this formal side is even more crucial today to the projection of power because “the rules and institutions by which globalization is structured have become evermore ambitious, far-reaching, and intrusive.” (Hurrell, 2008, p.268). Moreover,

[a] great deal of U.S. power is exercised through the changing legal and normative structure of international society - through U.S. influence on core norms (e.g. those relating to the use of force or to the changing character of sovereignty); through U.S. influence on regimes and institutions that it often chooses not to join; through its capacity to influence choices between market and political modes of governance; and through its cultivation of alternative modes of governance (e.g. the expansion of regulatory networks, or the externalization of its own domestic law). The view of the United States as being either ‘for’ or ‘against’ international law and institutions is highly misleading and runs the risk of diverting our attention from the ways in which U.S. power is actually exercised (Hurrell, 2008, p.269).

By neglecting the formal aspects of informal empire, “the distinction between direct coercive control and control exercised through rules and institutions and mediated by negotiation” (Hurrell, 2008, p.269) is overlooked. To call the U.S. an empire, for many people, is a response to the immense power resources and capabilities the country possesses, giving it an appearance of dominance over all the other countries.

Empire (rather than hegemony or primacy) seems particularly appropriate for the direct use of coercion against weaker and

subordinate states, unmediated by political negotiation, agreed rules, or shared institutions. Yet viewing power in purely coercive and material terms rests on a very narrow and essentially unhelpful understanding of power. To understand power in international relations, we must see it as a social relationship and place it side by side with other quintessentially social concepts such as prestige, authority, and legitimacy. A great deal of the struggle for political power is the quest for authoritative and legitimate control that avoids costly and dangerous reliance on brute force and coercion (Hurrell, 2008, p.269).

To sum up, hegemony for Hurrell, or at least, the American hegemony, does not originate or sustain itself merely because of the power the U.S. has — materialistically speaking, but also because of the social power it has. An empire ends when willing collaborators cease to exist, being also the case for formal and informal empires, and hegemonic systems. And stable hegemony depends of a “delicate balance between coercion and consensus, a balance between the exercise of the direct and indirect power by the hegemon on the one hand and the provision of a degree of autonomy of action and a degree of respect for the interests of weaker states on the other.” (Hurrell, 2008, p.270).

Differently from direct subordination, which would be the case of an empire, “hegemony is necessarily based on a constant, and usually unstable, process of negotiation between the strong and the weak.” (Hurrell, 2008, p.270). Meaning that “negotiation and the cultivation of legitimacy play an unavoidable role, especially, given the changing nature of policy content in a globalized world.” (Hurrell, 2008, p.270). But if hegemon is considered to best capture what the U.S. is, there is also something else to be addressed about the depth of involvement. Informal empire and hegemony could imply shallower involvement from the power in question, or less intrusive efforts to shape the subordinate or the weaker state to the hegemon’s preference. This could be true when looking at Britain’s informal power era, but not when looking at the United States, which have clear examples of deep involvement “in attempts to remake and remold subordinate political units” with a “high phase of interventionist fervor between 1898 and the Good Neighbour Policy of 1933, especially in Cuba, Haiti, and the Philippines” (Hurrell, 2008, p.270).

One reason Hurrell sees for this difference of U.S. hegemony is, in the words of this dissertation, exceptionalism. The pressure towards deep involvement partially arise from “the recurring U.S. political and moral ambition to improve the world and to export its values”, because “whether we are talking about 1908 or 2004, it is highly improbable that making people good,

or even moderately less bad, is ever going to be achieved by a minimum interference.” (Hurrell, 2008, p.271). Another set of pressures arises from the changing character of U.S. economic interests. During the twentieth century there was heavy investment in production and exploitation of raw materials, making them more present at the exterior territory. Plus, “the changing character of global economic regulation, most of which is related in one way or another to U.S. interests, has increasingly come to involve deeply intrusive rules whose value depends on their internalization and implementation within domestic societies.” (Hurrell, 2008, p.271). The system came to be more deeply involving.

Summarizing the crucial points made by him, Hurrell says:

The promotion of U.S. interests in a globalized age has come evermore to involve deep intrusion into how different societies are to be organized domestically. This is a structural change. If states are to develop effective policies on economic development, environmental protection, human rights, the resolution of refugee crises, the fight against drugs, or the struggle against terrorism, then they need to engage with a wide range of international and transnational actors and to interact not just with central governments but with a much wider range of domestic political, economic, and social players. If you want to solve problems in a globalized world, you cannot simply persuade or bully governments into signing treaties and are therefore inevitably drawn to become involved with how other people organize their own societies (Hurrell, 2008, pp.271-272).

Hurrell can be understood as being relatively critical of U.S. actions as a hegemon. However, in this last quote, he says that to be involved with how other people organize their own societies is a consequence of wanting to solve world problems. This is, at best, a bit naive, and, at worst, a white savior behavior to justify U.S. involvement or interference.

The author says that empires and hegemonic powers always had extreme difficulty to define and limit their interests, and he criticizes the common narrow view in IR that thinks of the international political system in neo-realist terms. In this view, IR scholars will focus on domestic factors, being the reason why U.S. policy is commonly explained in terms of interest groups or ideology. Of course domestic factors influence and guide an empire or a hegemon, but there is more to it, argues Hurrell. Instead of thinking of the system as constraining actors by pushing and shoving, it should be seen as constraining them by entrapping and ensnaring. “Maintaining a successful empire is an

extraordinarily difficult task” because “there can be no stable equilibrium of power and no uncontested definition of interest.” (Hurrell, 2008, pp.272-273). Instabilities of the periphery and actions of the weak can cause disorder, and even though almost anything can be described as having something to do with the fulfillment of an interest from the empire or hegemon, it doesn’t mean it is true.

Hurrell cautions against this limited view, as if the policies of one State, in particular the U.S., are always part of its own grand strategic choices, with many more factors to be taken into account, such as followership and legitimacy, and local balances and bargains. “It is not difficult to refute the view of the United States as purely reactive to events in the outside world. In an important sense, the United States has always been a revisionist state, whether this has been reflected in crusading or exemplarism.” (Hurrell, 2008, p.273). Once again, with the crusading and exemplarism idea, Hurrell is talking about exceptionalism without explicitly mentioning it, something discussed in chapter two .

Two commonly attributed reasons as to why empires ended in the twentieth century are the changes in the legal and normative climate, and the existence of opponents and challenges. These factors are also responsible for the broader diffusion and decentralization of power that happened between 1900 up until the late 70’s. It is also relevant to point out how far this diffusion or decentralization has been reversed since this period. The struggle against an empire can be seen in various changes in the dominant norms of international society: “the increasing constraints on the use of force, especially in relation to conquest, forcible control and occupation; and the increased centrality of the norm of self-determination.” (Hurrell, 2008, p.279). But in some ways, in the 90s the normative and legal change appeared to be going in the opposite direction. It has

increased acceptance of the need to rethink and re-conceptualize sovereignty; increased acceptance of the argument that new security challenges necessarily involved deep involvement in domestic affairs of other, and especially weak, states; the establishment of international administrations to run territories whose sovereignty had been effectively suspended and the broader return of ideas about protectorates and of graduated notions of sovereignty of the kind familiar to lawyers writing at the turn of the twentieth century; and the spread of ideas about humanitarian intervention, human security, and the responsibility to protect (Hurrell, 2008, p.279).

Hurrell gives four points about this reason. First, “it may be true that the character of the legal order reflects patterns of hegemonic power and the interests of major states”, however, “it is also the case that controlling an increasingly complex and pluralist legal order is far harder today than it was a hundred years ago.” (Hurrell, 2008, pp.279-280). The complexity and pluralist characteristics of the international legal system of today has made it harder to control, being this “a structural reason why the frustration of the United States with international law has grown sharper.” (Hurrell, 2008, p.280), something resumed in the next section with John F. Murphy.

Second, “the major normative constraints are still there, especially in terms of norms against conquest and in favor of self-determination.” (Hurrell, 2008, p.280). The normative developments made it more difficult to use coercion, especially human rights expansion. Again bringing up the War on Terror, Hurrell says that even though U.S.’ actions represented a challenge to human rights in different parts of the world, the reaction of other states to these challenges “demonstrates at least to some degree the embeddedness of the culture of human rights that has become such a central part of the liberal solidarist view of international society.” (Hurrell, 2008, p.280).

Third, “to take advantage of the potential benefits of the legal order, the United States has to engage with it.” (Hurrell, 2008, p.280). From the outside, it seems the most striking characteristic after 9/11 “was the failure to engage more systematically with the UN and international law at a time when so many aspects of the legal order were running in its favour.” (Hurrell, 2008, p.280). And fourth,

running in the opposite direction, the United States has picked up on two sets of norms for which consensus in international society is very hard to win - certainly outside a much deeper, offsetting commitment to process and procedure. One has to do with the use of force and the enunciation of a doctrine of both expanded pre-emption and prevention that clearly represents a far-reaching change in established legal understandings of the justifiable use of force. The other involves taking the already emerging notion of qualified or conditional sovereignty but giving it a much harder edge, for example, by arguing that certain sorts of states have lost the sovereign right to possess certain sorts of weapons, or that conditional or qualified sovereignty legitimizes intervention to change a political regime (Hurrell, 2008, p.280).

Regarding the other reason — of opponents and potential challengers — Hurrell says that “[t]he end of European empires was closely bound up

with the existence of a global balance of power and with the dynamics of the competition between the superpowers and the opportunities that this created for weaker states and nationalist movements.” (Hurrell, 2008, p.280). In the same line, the end of the Soviet Empire can only be understood within the context of the Cold War and bipolar rivalry. Two positions can be identified regarding the question of opponents and potential challengers being something that ends empires.

The first position Hurrell identifies is one heavily power-based, that rests on three propositions. The first is that U.S. dominance is stable because of how powerful it is, having no serious challenger to its power. The second is that the U.S. can secure sustained support for itself through deals. It may be deals for security dependence, or economic dependence. The third proposition is that the U.S. power is stable because it rests on a legitimate purpose. U.S. power would be legitimate “because of the public goods that only the U.S. can provide and because its power rests on broadly shared societal values, especially freedom and democracy.” (Hurrell, 2008, p.281), which is a view from exceptionalism.

Hurrell points out the flaws with this position. “It sees balance of power politics solely in terms of military challenges and challengers.”, it “downplays the willingness of major states affected by U.S. power to engage in a modified form of balancing behaviour.”, and “the claims to legitimacy quite clearly have not won over large parts of the world, even amongst those who share many of the same political and cultural values.” (Hurrell, 2008, p.281). The alternative position of understanding the stability of the U.S. as a hegemon comes from understanding the strategic choices of the hegemon “in terms of efforts to constitutionalize its power and to win acceptance for its pre-eminence” (Hurrell, 2008, pp.281-282). Hurrell says that Ikenberry gives one of the clearest accounts of this logic.

A rational hegemon will engage in a degree of self-restraint and institutional self-binding in order to undercut others’ perceptions of threat. [...] In his many writings, he [Ikenberry] has stressed the distinctive, open, and institutionalized character of U.S. hegemony and of the ‘liberal’ bargain that Washington has been able to deploy to address ‘the uncertainties of American power’ (Hurrell, 2008, p.282).

In this alternative position, it is the position of the U.S. in the LIO that would justify its maintenance of hegemony. This leads to a discussion of the crisis of the LIO, since a crisis of the LIO could be understood as a crisis of U.S. hegemony. This will be discussed in chapter four.

There is no doubt that the colonial aspects of U.S. actions need to be taken into consideration. In the following section, Natsu Saito (2010) pays great attention to this. However, Hurrell's arguments of best understanding the U.S. as a hegemon are quite convincing, even though his work can be criticized for the lack of colonial critiques in it. But to consider the U.S. as a hegemon and not as an informal empire does not mean overlooking its colonial aspects. If the problems with hegemony, that lead scholars to classify it as modern empires, are problems of the colonial structure of international relations, or International Law, or the international system, would this mean that a hegemon is a colonial power? No, but it has colonial aspects. To consider it the same is to also ignore or overlook the differences, and it is to ignore that different colonial empires built the system more alike to what we have today, and that hegemony enjoys and succeeds in colonial structures, but is not itself a colonial creation. Although a discussion outside the scope of interest of this dissertation, it is important to define whether to consider the U.S. as a hegemon or not, in order to better explain how the country relates to IL.

### 3.3

#### **Multilateralism or unilateralism: an exceptional position**

Multilateralism is an important dimension of the LIO, a crucial pillar for the functioning of the international legal system, and a disputed characteristic of the United States. In the second chapter, Hilde Restad (2015) defined American behavior mostly as unilateral internationalism, meaning that the U.S. engaged with the rest of the world, but preferred to conduct its foreign policy unilaterally. But Natsu Saito (2010) argues that there is a tension between unilateralism and multilateralism as policy and practice of the United States. What can be sometimes seen as contradictions, can be also understood as different means to achieve American interests. And American exceptionalism provides reason, motive and justifications for this behavior.

In trying to better define what multilateralism is, John Ruggie (1992) argues that what is distinctive about the concept is that it refers not only to the coordination of "national policies in groups of three or more states, which is something that other organizational forms also do, but that it does so on the basis of certain principles of ordering relations among those states." (Ruggie, 1992, pp.566-567). To only consider its nominal definition, misses the qualitative dimension of the phenomenon. The number of state-parties is not what better describes multilateralism, but the kind of relations that is instituted among them. The multilateralism in the LIO that the U.S. has been preaching since the end of World War II has ordering principles that correspond

to the U.S. agenda, and these principles are exactly what the liberal order is made of. After World War II it “was less the fact of American hegemony that accounts for the explosion of multilateral arrangements than it was the fact of American hegemony.” (Ruggie, 1992, p.568).

Ruggie gives three examples of generic institutional forms: multilateralism, bilateralism and imperialism. Referencing a previous discussion, his definition of imperialism where the sovereignty of the subject states is denied, shows that he does not consider the U.S. as institutionalizing imperialism. However, one might argue that if the system engages with multilateralism because the U.S. was the hegemon and chose this institutional form, the generalized principles might not be as generalized as Ruggie defines. Although, the author concedes the following:

[I]t is important not to (con)fuse the very meaning of multilateralism with any one particular institutional expression of it, be it an international order, regime, or organization. Each can be, but need not be, multilateral in form. In addition, the multilateral form should not be equated with universal geographical scope; the attributes of multilateralism characterize relations within specific collectivities that may and often do fall short of the whole universe of nations. Finally, it should be kept in mind that these are formal definitions, not empirical descriptions of actual cases, and we would not expect actual cases to conform fully to the formal definitions (Ruggie, 1992, p.574).

Multilateralism then is a separate dimension from international order, and actual cases, such as the central role the U.S. plays in the system, can have particularities. Ruggie argues that although the theory of hegemonic stability is right in saying that hegemonic powers are alike in their pursuit in organizing the international system, they don't necessarily choose the same institutional form to do so.

Thus, all hegemonies are not alike. The most that can be said about a hegemonic power is that it will seek to construct an international order in some form, presumably along lines that are compatible with its own international objectives and domestic structures. But, in the end, that really is not saying much. For American postwar planners, multilateralism in its generic sense served as a foundational architectural principle on the basis of which to reconstruct the postwar world (Ruggie, 1992, pp.585-586).

And for a while, especially after the end of the Cold War and at the beginning of this century, the U.S. could be seen as a promoter of the rule of law internationally to other countries and at the global level. As John F. Murphy (2004) argues, the U.S. government promoted the role of law in foreign countries, mainly third world and former Soviet ones. But even before that,

[t]he United States has often proclaimed its support for the rule of law in international affairs. In particular, at the close of World War II, when it was truly the “sole superpower,” the United States engaged in strenuous efforts to create an international order based on legal principles. These efforts resulted in a post-World War II international system, still very much with us, that presupposed at every stage of its development a dominant power that would be essentially non-imperial, nonaggressive and committed to the proliferation of law-based international institutions (Murphy, 2004, p.2).

This post-World War II international system that Murphy refers to is the liberal order discussed in the first section. The U.S. had a leading role in the creation of the United Nations, and strongly supported the reintroduction of a system of collective security against aggression and the creation of international organizations that encouraged cooperation, which included specialized agencies in different fields and subjects — economy, development, agriculture, education —, as already discussed. “[T]he very existence of the United States as *the* superpower was an indispensable element for its strong support of the rule of law concept in international affairs.” (Murphy, 2004, p.3, emphasis added). This can be seen as another characteristic particular of the American hegemony, the attention to the rule of law.

As the superpower, the U.S. had overriding influence in many international institutions, being in a position “to ensure that the law would develop in a way acceptable to it and, to a considerable extent, that decisions taken regarding the interpretation and application of that law would be compatible with its interests.” (Murphy, 2004, p.3). However, the U.S. gradually began to lose the control it had over the international legal system. Murphy says that many elements contributed to this loss, and cites the emergence of the Soviet Union as a key adversary, the communist takeover in China, the united movement of the third-world states in international institutions, and the U.S. responses of questionable legality to terrorism.

With the end of the Cold War, it finally seemed that international institutions, “especially those created after World War II, would be able to

function in the manner envisaged by their creators.” (Murphy, 2004, p.4). An example was the good performance of the Security Council over Iraq’s invasion of Kuwait in 1990. But the optimism dissipated quickly with the performance over other important matters, such as keeping the peace in Bosnia-Herzegovina, Somalia and Kosovo. Murphy argues that during the 1990s and into the 2000s, the United States found itself in an unknown legal territory. “While proudly proclaiming itself the ‘sole surviving superpower,’ the United States has experienced a ‘power shift’ that has resulted in a significant loss of autonomy and its sharing power with a variety of nongovernmental actors.” (Murphy, 2004, p.4). To solve international issues the action by the single superpower will always need a combination of other major states, but the U.S. more often than not acted unilaterally. This made the U.S. become more and more alone, opposing most of the world and institutions. For this and other reasons, “the United States has found it increasingly difficult to adhere to the rule of law in international affairs.” (Murphy, 2004, p.4).

It is clear in Murphy’s book, as hinted by the use of the article ‘the’, that his arguments are, at best, slightly biased. He believes that after World War II, the United States was the sole superpower, but he does not mention when exactly the Soviet Union then would have become a match to oppose the U.S.. When talking about the third world movement, he also mentions that most of them were soviet-influenced countries, as if it was this aspect that made them seek some space in international institutions. Despite his clear anti-communist stance, which isn’t a problem in itself, he doesn’t acknowledge that losing control over international institutions being a bad thing was a contradiction of the multilateral, liberal and freedom discourse the U.S. had over decades in this idea of a liberal order. He does say the following:

*Ironically, perhaps, one of the reasons why the United States has found it increasingly difficult to adhere to the rule of law in international affairs has been the explosive increase in the scope of international law. With the “globalization” of the world economy, and the externalization of matters that once were considered to be purely national, international law now applies to many subjects and fields of law – such as criminal law, environmental law, family law, the jurisdiction and judicial procedures of U.S. courts, human rights, and economic, political, and social activities of states in the United States – that previously were regulated mostly or even solely by domestic law. Partly in response to the greatly expanded scope of international law, new international legal institutions – the World Trade Organization, ad hoc and permanent international*

criminal tribunals, and the Law of the Sea Tribunal – have been created, or existing international legal institutions – the United Nations, the International Court of Justice, the World Bank, and the International Monetary Fund – have become more active and have assumed greater responsibilities. As a result of this emergence of international law and international legal institutions, new actors have demanded, and have often been granted, the right to participate in their development. Besides the governments of the many states that have been created with the end of colonialism and the collapse of the Soviet Union and of Yugoslavia, these new actors have included transnational or multinational corporations, nongovernmental organizations (NGOs), prominent individuals, and state governments in the United States. On numerous occasions these new actors have had interests contrary to the official position of the U.S. government, and at times they have worked assiduously and successfully in international conferences to bring about a final product that the United States has opposed (Murphy, 2004, p.6, emphasis added).

By using ‘ironically’, Murphy seems to be implying that even though the U.S. worked hard to further develop the international legal system in an international order that was under its lead, it was exactly the success of its doings that dissatisfied the country. The increased scope of International Law is a sovereignty problem and to have other actors participating in the system, other states or other types of organizations, is a sharing power problem. The limitations “on sovereignty are simply an inconceivable prospect to most Americans” (Murphy, 2004, p.354) and the reasons vary.

In some part they are based on the U.S. *attitudes of triumphalism, exceptionalism, and provincialism* explored throughout this study. More fundamentally, they reflect an historical distrust of power, especially of centralized power. This distrust of centralized power in the purely U.S. context is even more pronounced when it comes to power centers outside U.S. territory. Hence, the United States favors international institutions and organs, such as the UN Security Council, the Yugoslav and Rwanda Tribunals, and the International Monetary Fund and the World Bank, where it enjoys a substantial measure of influence. In sharp contrast, it strongly opposes the International Criminal Court, which has established a new legal order where U.S. nationals and officials could be tried by an international court over which the United States, as a non-party, will exercise no control. As a result, the United States has

been accused of being a country that views international law and institutions as something to be inflicted on other people. In my view the record does not support this thesis (Murphy, 2004, pp.354-355, emphasis added).

Murphy's work focuses on the reasons for the declining U.S. support of a legal system that it greatly helped to build, and the unwillingness of the U.S. to support new initiatives in the system. Therefore, his arguments are legal arguments. One of these is that the nature of International Law and international institutions quite differ from the domestic legal system and U.S. institutions. Such as the absence of a legislative body in the international arena and the no binding authority over most matters in international institutions. With the favored legal approach in the U.S. being the dualist one, the International Law system and the domestic U.S. law system are entirely separate and operate independently of the other. And International Law can only be applied in the U.S. legal system if it was incorporated to the domestic system. In the last sentence of the previous quote, where Murphy disagrees with the U.S. not being subjected to IL, he means that the U.S. indeed participates and is subjected to International Law. But, not all the time, and in particular ways, due to many factors that need to be taken into consideration. In short, this is just a matter of inconsistency.

The United States has had considerable difficulty in adhering to the rule of law in its conduct of foreign affairs. However, there also have been occasions when the United States has taken the lead in supporting the rule of law in resolving some of the major international issues. There has been, in other words, a substantial degree of inconsistency in the U.S. record (Murphy, 2004, p.349).

Something noteworthy about a previous quote is the attitudes of triumphalism, exceptionalism, and provincialism Murphy mentions.

Besides the great expansion in the scope of international law, another recent development that has had a profound impact on U.S. adherence to the rule of law in international affairs is the collapse of the Soviet Union. This has left the United States as the "sole remaining superpower" and has encouraged an attitude of triumphalism that has irritated the governments of other countries and may have undermined U.S. initiatives toward the development of international law and policy. Accompanying this triumphalism and closely related to it is an attitude of "exceptionalism," that

is, that the United States bears special burdens and is entitled to special privileges because of its status as the sole surviving superpower. The collapse of the Soviet Union has also brought about a recrudescence of U.S. provincialism and isolationism as well as of a preference to act unilaterally rather than multilaterally. In short, certain attitudes currently characteristic of the U.S. policy stand in the way of U.S. support of the rule of law in international affairs (Murphy, 2004, p.7).

These ideas are crucial to this dissertation. Although not diving deeper than what has already been quoted, Murphy acknowledges how these ideas influence the relationship between the U.S. and IL. It is curious to note that Murphy tries during his entire book to be critical of what he is talking about, but is never critical of the U.S.. Sometimes he exempts the U.S., like in the quote above, where he mentions that their attitude of triumphalism has irritated other states.

One conclusion Murphy comes to is that the United States indeed sometimes undermines the effectiveness of treaties it has ratified, hence the adjective “inconsistent” he uses to define the U.S. relationship with International Law. But in treaties that the U.S. does not ratify, the reason could be that it “can gain some of the benefits of these treaties without incurring the burdens of becoming a party to them” (Murphy, 2004, 350). That’s why the U.S. favors less formal procedures, because it gives the flexibility it can and that it is willing to afford. All of this makes sense when we are talking about treaties that could limit U.S. power and freedom. And even though he calls the U.S.’ behavior inconsistent, this isn’t necessarily a bad thing.

Paradoxically, as Robert Keohane has observed, foreign policy considerations may counsel against U.S. compliance with international law. A reputation for compliance with international law is not necessarily the best means, and certainly not the only means, for accomplishing certain foreign policy objectives. States can also benefit from a reputation for toughness or even for irrationality or unpredictability. Powerful states, like the United States, are less likely than most to pay a high price when they violate international law, so they may conclude that they would do better by violating international law when doing so shows that they will retaliate against threats to national security (Murphy, 2004, p.8).

But when discussing treaties that grant more rights to its population, something else must be the reason. Historically the U.S. has a particular

relationship with human rights, favoring and mostly promoting civil and political rights that reflect the Western tradition of individual rights against the state. To leave aside or actively reject economic, social, and cultural rights, is to stand up against, as Murphy classifies, rights based on a more communitarian or socialist set of values (Murphy, 2004, p.23). However, how does the U.S. justify, to their population and the rest of the world, not wanting to grant more rights and more protection for women, children and disabled people, for instance? This dissertation argues that the concept of exceptionalism plays a key role to this justification.

As said in the previous chapter, Michael Ignatieff (2005) believes that American behavior towards human rights is not exceptional for its inconsistency; what is exceptional it's the paradox of the U.S. being a leader and an outlier simultaneously. The author describes three separate elements of American exceptionalism — meaning elements of behavior. The first is that the U.S. signs conventions and treaties on international human rights and humanitarian law, but then, it makes reservations, or fails to ratify them. This would be exceptionalism, that should not be confused with isolationism. The U.S. will only support multilateral regimes if they will allow exemptions for the country and its citizens. Also involves the negotiation and signing of treaties, but with reservations. The country is not alone in this practice, and they are the price needed for any universal rights regime to function. Without flexibility, any agreement and treaties would be unlikely to exist. Moreover, exceptionalism makes the U.S. an outlier.

American ratification renders U.S. participation in international human rights symbolic, since adopting treaties does not actually improve the statutory rights protections of U.S. citizens in domestic law. Exemptionalism also takes the form of signing on to international rights conventions and then failing to abide by their requirements. The U.S. record of treaty compliance is no worse than that of other democracies, but because of the superpower's exceptional political importance, U.S. forms of noncompliance have more impact than those of less powerful states (Ignatieff, 2005, p.6).

Another action is the refusal to ratify treaties, even though the U.S. participated in the negotiation of them.

For example, the Senate refused to ratify the Convention on the Rights of the Child, leaving the United States the only nation besides Somalia not to do so. The United States took nearly forty

years to ratify the Genocide Convention. Failure to ratify doesn't mean that the United States fails to comply: no one has complained that the United States is currently guilty of genocide. Nor does failure to ratify the Convention on the Rights of the Child mean that standards of child protection in the United States are as poor as those of the other nonratifier, Somalia. Nonratification simply means that U.S. child advocates cannot use international standards in domestic U.S. litigation. Likewise, U.S. refusal to ratify the Convention on Eliminating Discrimination against Women does not leave American women without protections and remedies. Nonratification means that UN instruments and standards have no legal standing in U.S. courts. How serious this is depends on the extent of the gap between current U.S. federal and state standards and international norms. Where this gap is large, Americans may lack rights and remedies available in other democratic states (Ignatieff, 2005, p.7).

The second element of American exceptionalism is that it has double standards, being less critical — or not critical at all — of itself and its allies, and having harsher criterias with its enemies. Finally, the third element is legal isolationism, which “characterizes the attitude of the U.S. courts toward the rights jurisprudence of other liberal democratic countries.” (Ignatieff, 2005, p.8). The country does not grant jurisdiction to human rights in its domestic law system, insisting on the full authority of its own internal legal system. “This judicial attitude is anchored in a broad popular sentiment that the land of Jefferson and Lincoln has nothing to learn about rights from any other country.” (Ignatieff, 2005, p.8), with the American judicial system being exceptional and enough, if compared to other judiciaries.

There are differences from the American legal tradition in comparison to international human rights standards. “International human rights laws allow more infringements of private liberty, in the name of public order, than do U.S. laws.” (Ignatieff, 2005, p.10). And overall, the culture of rights in America is more distinctive than its constitution being one of the oldest in existence.

U.S. rights guarantees have been employed in the service of a political tradition that has been consistently more critical of government, more insistent on individual responsibility, and more concerned to defend individual freedom than the European socialist, social democratic, or Christian democratic traditions (Ignatieff, 2005, p.11).

However, the U.S. is the only democratic state that deeply engages with all three practices — exemptionalism, double standards, and legal isolationism —, and is the only one that “combines these practices with claims to global leadership in the field of human rights.” (Ignatieff, 2005, p.4). While it appears that the West, different from the non-Western world, has a common rights identity, the leader of the West continuously stands apart.

Anu Bradford and Eric A. Posner brings a new view into this discussion. During the nineteenth century the United States did not get involved in the European powers disputes. After World War II this stance changed. It emerged as one of the two great powers in the system, and was the main force behind the building of major international institutions, such as the UN, World Trade Organization (WTO), World Bank, IMF, and NATO. With the collapse of the Soviet Union, it came out of the Cold War as the sole hyperpower.

And yet the United States has, throughout this entire period, showed ambivalence toward international law. More than any other state, the United States put financial and diplomatic resources into advancing human rights, yet it refused to ratify most of the major human rights treaties, and has committed major human rights violations, including torture in its operations against Al Qaeda. It promoted the international trade system yet has engaged in protectionist measures. It hosts the United Nations and is its largest dues-payer, yet it has violated the U.N. Charter by launching wars without U.N. Security Council ("Security Council") approval, and frequently has been in arrears on its dues. It helped negotiate a number of important treaties - including the Law of the Sea Convention, the Rome Statute, which created the International Criminal Court ("ICC"), and the Vienna Convention on Treaties - and then refused to ratify them. It has resisted numerous efforts to strengthen the laws of war and to ban weapons such as landmines. As a result, the United States has undermined or seriously weakened the international order it has helped to create and has earned the resentment of countries not powerful enough to treat international law as an a la carte menu - or so it is said (Bradford; Posner, 2011, pp.3-4).

These authors argue that the explanations for the distinctive international behavior of the U.S. are commonly based on the uniqueness of the United States, appealing to a long line of literature on American exceptionalism. On this line of thought of exceptionalism as the answer, common arguments are

that “Americans believe that the United States, as the world’s preeminent nation, perhaps one with a unique mission to promote freedom and democracy, cannot be required to submit to international institutions”; or “Americans are less liberal than people in other countries, and thus oppose international legal change that liberalizes international relations too extensively”; or even, the ‘fault’ lies in the “distinctive attributes of American political institutions — for example, federalism and the high bar for ratifying treaties.” (Murphy, 2004, p.5).

The interpretations of exceptionalism have already been discussed in chapter two, and Bradford and Posner use Seymour Lipset’s *American Exceptionalism: A Double-Edged Sword* as the reference for the concept. What is new here, in comparison to many authors in this chapter and opposing the argument of this very dissertation, is that the authors believe that exceptionalism being used as an explanation for U.S.’ behavior is a mistake.

The American stance toward international law is not distinctive or exceptional - or, put differently, the United States is no more exceptional than any other powerful country. When creating international norms, powerful nations characteristically advance interpretations of international law that reflect their values and advance their interests. Similarly, powerful nations’ willingness to ratify or comply with international norms hinges on the consistency of those norms with their values and interests. This type of "exceptionalism" is therefore not the exclusive preserve of one state (Bradford; Posner, 2011, p.5).

China and the European Union (EU), alongside the U.S., all are acting on exceptionalism, but different types of it. The same way the Soviet Union did just like the U.S. during the Cold War. Scholars are blind to the exceptional behavior of other countries because they focus on this idea of American exceptionalism, when in fact it is only one kind.

Another argument the authors make is that “international law is best understood as an overlapping consensus of the otherwise ‘exceptional’ views of the great powers. At the core are legal norms to which virtually every nation considers itself bound. Outside the core, there is conflict.” (Bradford; Posner, 2011, p.5). In this conflict area, states make inconsistent claims about the meaning of International Law, and it is a mistake to accept one meaning of one nation in this disputed area. The authors say as much because their arguments are descriptive, and not normative, meaning that they do not believe that any state’s view of International Law is the correct one.

But this also means that “as long as nations disagree about the meaning of treaties and other sources of International Law, the content of International Law remains unsettled.” (Bradford; Posner, 2011, p.6). This is why, as shown in a previous quote, the authors believe that it isn’t true that the United States undermined or weakened the international legal system they helped to build. This system is still unsettled in many of its contents, and different states are still trying to normalize their view.

Bradford and Posner use three concepts that characterize three views of International Law. Universalism is the view that International Law applies to all states. Exceptionalism is the view that norms of International Law should reflect the values of one particular state. And exemptionalism is the view that the rules of International Law should apply to all states, with the exception of one in particular. Historically, universalism would be the notion that all states are invited to be part of the international legal system, with expectations and obligations designated and agreed upon in this system, regardless if the state is large or small, rich or poor, powerful or weak. When facing global problems, the states would come together to solve it, with the solution binding all of them. Bilateral or regional agreements are not seen as problems as long as they are consistent with the obligations under multilateral treaties and institutions<sup>16</sup>.

We use the term "exceptionalism" to refer to the attitude of a state that believes that it is a model or leader in international relations because of its unique attributes. The state may hold that its institutions are the best in the world, or that it has a historical mission - and for these reasons, the state’s commitments should be the world’s commitments as well. Exceptionalism does not imply exemptionalism. An exceptional state may choose to comply with the rules of international law with which it disagrees. If it does violate the rules of international law, or some of those rules, it argues that those rules are inconsistent with international law properly understood. In doing so, it typically claims that some alternative rules should apply to all states equally, including itself. Thus, exceptional states need not abandon universalism, and indeed they rarely do. The exceptional state need not take the next step of exemptionalism, and argue that the rules apply to

<sup>16</sup>Although this claim is part of a concept defined by the authors, this is part of a more complex discussion. See: Bhagwati, Jagdish. Regionalism versus Multilateralism. *The World Economy*, Vol.15, Iss.5, 1992; Lawrence, Robert Z. Regionalism, Multilateralism, and Deeper Integration. Washington, D.C: The Brookings Institution, 1996; Leal-Arcas, Rafael. Proliferation of Regional Trade Agreements: Complementing or Supplanting Multilateralism? *Chicago Journal of International Law*, Vol.11, N.2, 2011.

all other states but not itself. As we will see, this distinction is crucial; exceptional states are often accused of exemptionism, in most instances inaccurately (Bradford; Posner, 2011, p.8).

To explain the difference, the authors use the United States as an example.

Some people argue that the United States should be exempted from certain types of international criminal jurisdiction because America sends soldiers around the world to promote democracy and keep the peace. This argument is exemptionist. The United States has not made this argument; instead, it has sought safeguards on criminal jurisdiction - such as the precondition of Security Council authorization before the ICC can launch investigations - that ensure that no state taking proper steps to uphold the international order will find its citizens in an international court. Thus, the United States has not argued that it ought to be exempted from the rules. Instead, it has insisted - consistent with exceptionalism - that American norms and practices should provide the basis for international law (Bradford; Posner, 2011, p.8).

Exceptional states are not against universalistic views of International Law, they just push their exceptional norms as what the universal norms should be. And they do so by influencing the development of International Law during treaty negotiations, and also at the stage of compliance. That's why only great powers are able to be exceptional states — which is not to say that all great powers are exceptional states. But it takes power and influence to be able to act like one.

Bradford and Posner indicate that the standard view is that the United States is in a paradox, of being both the leader in advancing human rights worldily since the end of World War II, and has at the same time violated them and indulged with foreign governments that also violate them. It is this seemingly inconsistent behavior that reinforced the idea of the United States as exceptional. Because even though many countries also violate human rights, the 'leader' is the United States. According to these authors there would be three strands of American exceptionalism. "First, the United States negotiates human rights treaties but ratifies them subject to reservations that cut back on the scope of its obligations, fails to ratify them, or ratifies but violates them." (Bradford; Posner, 2011, p.9). Or they will state "that the provisions of the treaties are not binding as a matter of domestic law." (Bradford; Posner, 2011,

p.10). These actions are indeed made by the U.S., but not only by them. They are actually common for all Western powers in the first case, and common for most states in the second, being an usual domestic legislation of needing an independent domestic act to embrace International Law as domestic law.

The authors are mainly answering to Ignatieff (2005) arguments of the U.S. being exemptionalist, as presented in-depth before them. Bradford and Posner argue that the United States is in fact exceptionalist, just like other states. For instance, the U.S. never argues that rules should apply to others but not to them. Actually, they argue that the rules they prefer should apply not only to them, but for everyone. Being a classical exceptionalist behavior.

The second strand is that “the United States condemns enemies for human rights violations that the United States itself commits, and turns a blind eye to friends who engage in the same behavior” (Bradford; Posner, 2011, p.10). This ‘double standard’ is not a distinctive behavior of exceptionalist states.

Double standards are better seen as the result of pragmatism (at best) or inconsistent preferences (at worst), and characterize the behavior of all states, not just exceptionalist states. A state that seeks to advance human rights finds that this policy conflicts with other interests, including trade and security. The state might be willing to compromise its ideals in order to satisfy the demands of interest groups or inconsistent public preferences. It might believe that in some settings security interests will advance human rights more than a consistent line on human rights. When the United States applies double standards, it simply acts like any other state (Bradford; Posner, 2011, p.10).

The third strand, also being a critique of Ignatieff (2005), is “that American courts do not pay much attention to foreign judicial rulings when interpreting U.S. constitutional law and, more generally, American constitutional norms are outside the international mainstream, or at least the mainstream of developed and democratic states.” (Bradford; Posner, 2011, p.11). While most countries have constitutionalized positive and social rights, such as health care, or have rejected death penalty, the United States can be seen as refusing to go along with other democratic states, which “can be seen as another manifestation of American exceptionalism — here, within the realm of judicial behavior and constitutionalism.” (Bradford; Posner, 2011, p.11). Bradford and Posner argue that not all states are democratic, and many formally democratic states

are unstable, cycling between democratic regimes and dictatorships, or not democratic in reality, having elites pulling the strings behind the scenes.

The authors question why Ignatieff (2005) compares the U.S. to other democratic states, in majority European democracies, but also Australia, Canada and India, for example, if these states amount to less than a quarter of all states in the world. This might be due to the fact that being a democracy is a huge part of the American ideal and the ‘americaness’, or, American exceptionalism. Actually, this is something the authors themselves say about the importance of democracy for the country. “The United States is one of the world’s oldest continuous democracies, and democratic principles are deeply embedded in the political culture.” (Bradford; Posner, 2011, p.40). Or “from an institutional standpoint, three features about the United States stand out: it is a democracy; it supports a market economy; and it has an enormous military.” with democracy and market economy reflecting “public opinion rooted in tradition”, being “institutions that are widely regarded as successful”, explaining why it “seems natural for Americans to urge other countries to adopt similar institutions.” (Bradford; Posner, 2011, p.40).

Statements like those are all over the text. They indeed talk greatly about the democratic spirit in the United States. Then why would Ignatieff be wrong in comparing other democratic states to the U.S., if it is the leader of democracy? They don’t see this contradiction, and they are not arguing that the U.S. is more democratic than the other states Ignatieff compares it to, but are arguing that Ignatieff actually is being eurocentric. To further explain this, Bradford and Posner propose another way of thinking, still in response to another accusation of Ignatieff, that Americans would not be strongly committed to liberalism. The authors say that, perhaps, Ignatieff makes the arguments he does because he does not consider “whether international law in fact embodies liberalism as he understands it — that is, liberalism understood on the European social-democratic model. The answer is surely no.” (Bradford; Posner, 2011, p.11). They also say:

Only a person who identifies European norms with world norms could say that the United States’ wavering commitment to liberalism - if that is the case - explains its exceptionalism. This mistake - the confusion of European norms and universal international norms - is central to the claim of American exceptionalism. On this view, European norms reflect the universal norms of international law (Bradford; Posner, 2011, p.12)

Against this, they argue that “great powers typically support a view of International Law that embodies their own normative commitments but is

presented as a universal set of commitments.” (Bradford; Posner, 2011, p.12). As previously said, this happened during the Cold War, and it happens now, with three exceptional ‘states’, the U.S., the European Union<sup>17</sup> and China. Each having its own exceptionalist vision of International Law, with the core of IL consisting of the overlapped claims of these ‘states’.

What Bradford and Posner are ultimately trying to show is how the United States can be seen as not following International Law if one considers European IL to be the universal one. If one considers what the United States thinks International Law is, then there wouldn’t be much contradiction, if any, left. One argument made to defend U.S. actions ‘against’ IL is that they do not say that other countries cannot do what they just did. They never said that they are the only ones that can act how they can.

The author’s arguments of the non-universality of International Law, due to an alleged Eurocentrism, is part of a more complex debate, especially because they are implying that the U.S. would be located in the periphery of International Law. The authors make a disclaimer that they are not arguing that the U.S. violates IL less than other countries, and they don’t seek or know how to measure and compare violations. Their argument is a qualitative one, that the U.S. is not distinct by its relationship with International Law, because like other major powers and also normal states, it sometimes also violates International Law.

But Ignatieff, heavily opposed by Bradford and Posner, says something that answers their claim of International Law not being universal. Ignatieff sees American exceptionalism as calling attention to the relation between the national and the universal in the rights culture. It needs to be analyzed the margin of interpretation each nation is allowed to have in their performance of assuring human rights.

If all nations are, at least to their own citizens, exceptional, we want an international rights culture that welcomes, rather than suppresses, authentic national expressions of universal values. [...] This is what a modern culture of rights entails, even for an exceptional nation: to listen, to deliberate with others, and if persuasive reasons are offered them, to alter and improve their own inheritance in the light of other nations’ example. *The critical cost that America pays for exceptionalism is that this stance gives the country convincing reasons not to listen and learn. Nations that*

<sup>17</sup>The authors deal with the European Union as a state to simplify their argument, although they believe that it would be better described as a quasi-state.

*find reasons not to listen and learn end up losing* (Ignatieff, 2005, p.26, emphasis added).

Natsu Saito (2010) research on American exceptionalism and IL is also important for this chapter. In agreement with the critique above, Saito believes that any selective self-exemption in the international legal system beyond undermining specific legal institutions and norms also leads to a decreasing effectiveness of the global rule of law. This is problematic “when engaged in by any state, but the United States’ practice of shaping, invoking, and selectively rejecting international law is particularly significant because of the extraordinary influence it currently wields as the world’s sole ‘superpower.’” (Saito, 2010, p.3).

Saito is trying to understand why the selective and frequent disregard of International Law and institutions by the United States receives a high level of approval or complacency by the Americans. Her thesis is that the historical thought of exceptionalism is the answer, and that the current (to her) approach to International Law by the U.S. is not necessarily new, but “the most recent extension of a consistent history in which International Law has been both invoked and disregarded.” (Saito, 2010, p.3).

Historically, Saito argues, the United States was built with contradictions, and has

consistently based its claims to legitimacy on advocacy of the principles of freedom, democracy, and the rule of law, while simultaneously developing policies and engaging in practices, often shored up by convoluted legal ‘interpretations,’ to exempt itself from compliance, thereby subverting the realization of these principles both domestically and internationally (Saito, 2010, p.4).

The many contradictions face mainly denial and are dismissed by the Americans. This happens because many believe that “America is special, or exceptional, because it claims certain incontestable values; the possibility that its hegemony was consolidated and continues to be exercised at the expense of those values can be ignored in the name of a greater good” (Saito, 2010, p.4). More so,

[t]he fundamental premise of American exceptionalism — that it is acceptable and sometimes necessary to violate international law for a “greater good” which can be determined only by American leaders — cannot be successfully countered by the argument that the United States is violating international law (Saito, 2009, p.250).

It is common for the twentieth century to be portrayed as a time in which the U.S., having become a superpower, left the isolationist phase to get involved in both world wars, and later transitioned to a position of leadership and internationalism, playing “an influential role in establishing international institutions designed to ensure a relatively orderly transition to a global world order in which democratic governance and economic progress would be increasingly available to all peoples.” (Saito, 2010, p.161). However, it is best if the United States relationship to International Law and institutions is considered “in terms of its emphasis on unilateral or multilateral action, as its sphere of influence, or action, expanded across the globe.” (Saito, 2010, p.161).

To prove her argument, Saito goes into deep historical work that shows how the U.S. always acted ‘internationally’. She even goes on to say that the U.S. was an imperial world power since the end of the nineteenth century, although with differences from European empires, giving it the excuse to not be called one. The Monroe Doctrine was a civilizing mission of the United States, with the country wishing to ensure civilized conduct outside of its territory, promoting political stability, in order to pave the way for economic expansion in accordance with their national interest. It was justified by Manifest Destiny, that as shown in the second chapter, it can be understood as part of exceptionalism.

The role of the United States in the building of International Law was prior to World War II, with the country helping the codification, implementation and expansion before it. At first, the U.S. insisted on neutrality during World War I, putting its national interests first. However, when this changed, president Woodrow Wilson framed

the rationale for going to war in legal terms, rather than simply invoking American interests more generally. In Wilson’s words, it was a war fought “to make the world safe for democracy”; put another way, it was an opportunity to extend the American vision of its manifest destiny across the planet even as thousands of American were being imprisoned at home under decidedly undemocratic wartime measures such as the Espionage Act (Saito, 2010, p.171).

To discuss the U.S.’ role in the League of Nations and how the country stepped back is not really relevant for this dissertation. But it is by analyzing the coloniality of both the League of Nations, that the U.S. had an influential role in its establishment, and the Mandate System, which the U.S. helped its functioning, that Saito argues that “given the extent to which international law developed in conjunction with European colonialism, it is not surprising

that U.S. attitudes toward international law have also been heavily influenced by American colonial encounters” (Saito, 2010, p.179). This is a refutation of Bradford’s and Posner’s arguments that IL would be eurocentric, in the sense that isn’t also American.

Saito sees World War II as a milestone in the history of American exceptionalism, with the position of power it gained after, and everything it was able to build or lead the construction of in the international system. But recently the United Nations started being portrayed and treated by Americans, its population, media and politics, as an ineffective organization, sometimes even accused of conspiring against the U.S. democracy. Since the 1980s this reaction against the UN can be traced back, and although many might call it an isolationist phase, Saito argues that this overlooks the leading role the U.S. had in establishing the UN.

This often contradictory history, in which the U.S. has exerted tremendous influence over the development of international institutions and simultaneously prevented them from fulfilling their potential, reflects the long-standing tension between multilateralism and unilateralism in U.S. policy that undergirds American exceptionalism and is the source of much of the international community’s frustrations with American policies and practices (Saito, 2010, p.183).

President Franklin Roosevelt framed World War II as a battle for democracy, with the future of the country and the world being endangered. By 1944 the State Department launched a national campaign to promote the United Nations, being important to mention because it shows that the building of the order was not only international, but also national. It needed to mean something domestically, and it did. The leadership of the U.S. meant so much more for its population. The campaign counted with various religious and political organizations, through many forms of media — newspaper, radio and even movie industry. The U.S. hosted the conference in San Francisco and provided a location for the headquarters of the UN in New York. It was a massive effort to not only make this institution work, but succeed in imbuing U.S. values and goals in it. Given the influence of the U.S. in the United Nations, it is not a surprise the early emphasis on civil and political rights, with them being long recognized in Anglo American jurisprudence.

When discussing the sometimes apparent failure of some international institutions, Saito argues that a historical fact that needs to be considered is the “failure of the United States to participate meaningfully in the structures

of global governance which it had gone to such lengths to establish and shape, thereby rendering them largely ineffectual.” (Saito, 2010, p.196). The U.S. exempts itself from international legal regimes, the same ones they helped to create, while its leaders still emphasize the importance of bringing democracy and the rule of law to all peoples.

In light of the dominant role played by the United States in establishing the financial, political, and military structures through which global power is now exercised and international law defined, the question becomes why it would put such effort into creating a legal regime only to reject it in so many respects (Saito, 2010, p.206).

Some say that this is a response to the War on Terror. However, Saito argues, the “actions are quite consistent with U.S. practice through much of the twentieth century, when terrorism was not considered a major threat.” (Saito, 2010, p.206). After World War II, “with the establishment of so many more global institutions and multilateral treaty regimes, the pattern of intense U.S. involvement in the formative stages followed by inconsistent participation in the result has emerged with much greater clarity.” (Saito, 2010, p.206).

Possible reasons as to why the U.S. sometimes disregard International Law could be the belief that the U.S. justice system and governance is superior, or that the U.S., due to its global powerful position, being different from most states, should not be subjected to the same constraints or legal liabilities as others do. These reasons are drawn from premises of, as Saito defines it, the ideology of American exceptionalism.

Since World War II the United States has promoted itself as the bastion of human rights while contemporaneously refusing to ratify basic human rights treaties, or doing so subject to numerous reservations, a practice often denounced as hypocritical. The standard American response has often been that it is reasonable to exempt itself from obligations to which it holds others because it has a higher or more evolved domestic legal and political system which provides adequate, even superior, protection of these rights (Saito, 2010, p.209).

Even though the U.S. has exempted itself from international human rights regimes, it has also “actively participated in the drafting of multinational human rights treaties and has enthusiastically promoted and participated in other types of multilateral treaties.” (Saito, 2010, p.214). Saito argues then that

“isolationism’ does not appear to be the appropriate descriptor of U.S. policy and practice”, and perhaps, its approach is “more accurately described in terms of the tension between unilateralism and multilateralism, and its apparently contradictory positions may be reconciled when viewed through the lens of perceived American ‘interests’” (Saito, 2010, p.214). Using as examples the fact that the U.S. is not a party to the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child Saito says:

Perhaps most significant, all the submissions and ratifications have been accompanied by numerous reservations, declarations, and understandings limiting the reach or interpretation of the treaties. Professor Louis Henkin has summarized the “principles” underlying these qualifications to the United States’ commitments as follows:

1. The United States will not undertake any treaty obligation that it will not be able to carry out because it is inconsistent with the United States Constitution.
2. United States adherence to an international human rights treaty should not effect - or promise - change in existing U.S. law or practice.
3. The United States will not submit to the jurisdiction of the International Court of Justice to decide disputes as to the interpretation or application of human rights conventions.
4. Every human rights treaty to which the United States adheres should be subject to a “federalism clause” so that the United States could leave implementation of the convention largely to the states.
5. Every international human rights agreement should be “non-self-executing.” (Saito, 2010, pp.213-214).

In opposition to human rights treaties, treaties governing economic relations are quickly and strongly endorsed because of their different domestic mechanisms of internalization, illustrating that the U.S. “is not averse to multilateral agreements, and that where there is the political will, the process of ratification by the Senate can simply be avoided.” (Saito, 2010, p.215). One view that explains this difference between treaties is that the U.S. “has promoted international economic regimes because these agreements and institutions have been structured to provide concrete material benefits to the U.S. and other ‘developed’ countries”, and also “because the decision-making processes within these institutions tend to protect the economically powerful.” (Saito, 2010, p.216). Now,

[i]f one views the United States' choice to act unilaterally or multilaterally in any given situation as a function of the perceived benefit to relatively immediate American interests, then the contrast in these positions is not so much hypocritical as it is consistent with an agenda that focuses on advancing American hegemony (Saito, 2010, p.217).

As quoted before, the often contradictory history of the U.S. relationship with IL reflects a tension between multilateralism and unilateralism in U.S. foreign policy, which for Saito is supported by American exceptionalism.

With the end of the Cold War and the apparent extension of U.S. influence across the globe, one can see both unilateral and multilateral approaches to international law as consistent with an approach that places priority on the protection of perceived American interests. During this era the United States promoted and shaped international organizations and norms, generally advocating that all states should comply with the global rule of law, while selectively choosing to exempt itself from those institutions and treaty regimes when it appeared that participation would be detrimental to ensuring American primacy. Viewed through this ideological lens of "America First," what might otherwise be criticized as hypocrisy or "flip-flopping" was justified by the assertion that U.S. interests are sometimes best served by unilateral action and sometimes by multilateral action, and that, in either case, democracy and freedom were being advanced for humanity as a whole (Saito, 2010, pp.219-220).

Although written in 2010, the 'America First' rhetoric came back with Donald Trump, and will be explored in the last chapter. The explanations Saito offers here of American interest, hegemony position and exceptionalism resonate with what Murphy (2004) pointed out as to why the U.S. acts the way it does. It has complex aspects that grant them enough power and puts them in such a privileged position of power, that they are able to mostly act following their interests or at least not having to comply with something against their interests. Exceptionalism, for Saito, is what justifies all of this to the American population; however, they are not the only ones affected by exceptionalism, but policy makers as well.

Saito uses a version of American exceptionalism in her book that portrays the U.S. as representing Western civilization at its peak, and the rest of the

world will be better off by trying to emulate its progress. To this consideration, two aspects are always present. One is the unparalleled economic, political and military strength of the U.S., and the other are the American values and constitutional rights that are superior. The United States has promoted as International Law in the War on Terror, acknowledged by many of its allies,

may best be characterized as the explicit incorporation of American exceptionalism into international law and structures of governance. Invoking the exigencies of recent changes in unconventional warfare waged by nonstate entities — namely, “global terrorism” — and, more broadly, the discontent manifest by peoples governed by arbitrarily created states incapable of meeting their expectations for improved living conditions, the U.S. has attempted to obtain widespread acquiescence to its “exceptional” power and a less constrained ability to unilaterally change what is accepted as international law (Saito, 2010, p.230).

The author questions if the American model is truly the appropriate global projection, and if the universalization of the American visions and realities is desirable or viable. She tries to show how historically the values of freedom, democracy and equality, just as other constitutional rights dear to Americans, are not actually great models. According to her, one thing to consider about the reality of the U.S. as hegemon is that it “has established and maintained its position as the world’s military, economic, and political superpower by virtue of controlling a hugely disproportionate share of global wealth and resources.” (Saito, 2010, p.225). And their great values were built on racism, mainly, and its colonial and slavery past were never actually addressed, with the values not being updated also.

While the post–World War II international order may have developed institutional mechanisms for reducing the potential for mass uprisings or dramatic political change, its stated objectives of achieving a lasting international peace undergirded by improved social and economic conditions have not been met. Viewed from this perspective, is “terrorism” the primary threat to global well-being or a fairly predictable response to increasingly untenable conditions of life? Is the extension of Western civilization through aggressive military action, backed by ever tougher international economic policies, the solution, or an intensification of the problem? (Saito, 2010, p.227).

A last important consideration of her:

The current American position seems to be one that relies heavily on the statist, or Westphalian, construct to assert the primacy of the United States, yet simultaneously projects both its visions and the institutions it has been instrumental in creating upon the rest of the world. In so doing, U.S. representatives invoke the familiar themes of American exceptionalism that have been the subject of previous chapters: human progress as a unilinear trajectory in which “man” dominates nature through science and technology, Western civilization as the highest stage of human social evolution, and the United States as both the best representative of that civilization and the model for its future development. As noted in previous chapters, national leaders today continue to invoke the exceptionalist imagery of the United States as representing the “shining city upon a hill,” that “perfect ideal” of freedom, democracy, and human rights. *If this is the story that defines the United States’ relationship to international law, its extraordinary influence over international legal institutions, as well as the specific instances in which American officials either insist upon compliance with the rule of law or exempt themselves from its provisions, can be understood not as “bullying” or hypocrisy but as intrinsic to a larger and relatively coherent strategy for preserving the gains of Western civilization and ensuring the progressive advance of humanity* (Saito, 2010, p.227, emphasis added).

Maybe, then, the relationship today the U.S. has with IL is part of a strategy of power, but this argument overlooks how exceptionalism is not only a political phenomenon, but a social one, as argued in chapter two. It can be seen as a political ideology, but also a belief (Hodgson, 2009) and a national identity (Restad, 2015). This section started with Ruggie’s argument (1992) that the system is multilateral because the hegemon was the United States. Murphy (2004), Restad (2015) and Bradford and Posner (2011) seem to disagree with the idea of a multilateral tradition, and rather, they see a unilateral tendency to deal with matters. But corroborating with Ruggie (1992), Saito is able to connect the tension of multilateralism and unilateralism with exceptionalism, better explaining what would be the case.

**3.4****Summary**

In this chapter, particular characteristics of the United States that are related to exceptionalism were explored in-depth. The creation of the Liberal International Order was discussed, mainly referencing the authors who came up with the term, but also counting with pertinent critiques of the order and the concept. For the question whether the U.S. has a status of hegemony or modern empire, different opinions were shown, but it was argued that hegemon is a better description. The last characteristic considered was how the United States is able to opt of acting in a multilateral or unilateral way, or rather, it acts in an exceptional way — with the why being a sum of exceptionalism, leadership in the order and hegemon status.

## 4

### American tradition on a tightrope

For now a liberal multilateralism is more liberal than most Americans would be comfortable to be (Ignatieff, 2005, p.25).

This chapter discusses challenges to American exceptionalism, to democracy and to the liberal international order. In particular, it will be inquired to what extent the rise and election of Donald Trump can be deemed ruptures in American traditions — American exceptionalism and how the U.S. relates to IL.

Section 4.1 discusses the crisis of the liberal international order. The second section, 4.2, discusses the definitions of Far-Right, or Alt-Right, especially in the United States, and their stance on the LIO. Furthermore, it analyzes the different views about Trump and his relation with the radical right-wing movement.

Section 4.3. focuses on the positions of the Trump administration about International Law, pointing out specific policies of his administration. The fourth section, 4.4, presents the literature about intermestic processes as a way to analyze how the domestic and international realms relate to each other. The 4.5 section presents the different perspectives on Donald Trump and American exceptionalism, inquiring to what extent his use of the concept of exceptionalism is part of his strategy, or a rupture in the traditional use. Lastly, a brief summary of this chapter is offered.

#### 4.1

##### Crisis of the Liberal International Order

For Deudney and Ikenberry (2018), ‘dark forces’ in world politics have returned. Not only have Russia and China failed to transition to democratic regimes, but the liberal world (the West) has chosen to undermine its own system, with examples such as Brexit and the election of Trump, who is for the first time since the 1930s, a U.S. president hostile to the order. But even so, the authors believe that the order will endure. "Even though the United States’ relative power is waning, the international system that the country has

sustained for seven decades is remarkably durable." (Deudney; Ikenberry, 2018, p.16).

The LIO originated before the Cold War, but it was after its end that the LIO became a global system, expanding and becoming truly international, with the important characteristic of having the U.S. as its hegemonic leader, as argued by Ikenberry (2009) in his definition of a 1.0, 2.0 and 3.0 order, discussed in the previous chapter. At the end of the Cold War, the order spread to countries in East Asia, Eastern Europe and Latin America, which made democratic transitions and integrated into the world economy. Institutions of governance were also expanded, such as NATO and the WTO. "Looking at the world at the end of the twentieth century, one could be excused for thinking that history was moving in a progressive and liberal internationalist direction." (Ikenberry, 2018, p.7)<sup>18</sup>.

Ikenberry and Deudney see the expansion of the LIO after the end of the Cold War as the origin of the crisis. The post-World War II liberal order was not originally global, but was constructed within a part of the bipolar Cold War system, and was also part of a larger geopolitical project of that war. The purposes of the order were linked to the West, U.S. leadership and the "global" struggle against Soviet communism. According to him, the (U.S.) internal order became external with the fall of the Soviet Union, and the U.S.-led liberal order, liberal internationalism, was globalized.

At first, this expansion was seen as a reason for success for Western liberal democracies, but two changes that occurred with the globalization of the order became the sources of the crisis.

First, it upended the political foundations of the liberal order. With new states entering the system, the old bargains and institutions that provided the sources of stability and governance were overrun. A wider array of states— with a more diverse set of ideologies and agendas—were now part of the order. This triggered what might be called a 'crisis of authority', where new bargains, roles and responsibilities were now required. These struggles over authority and governance continue today. Second, the globalization of the liberal order also led to a loss of capacity to function as a security community. This can be called a 'crisis of social purpose'. In its Cold War configuration, the liberal order was a sort of full-service security community, reinforcing the capacity of western liberal democracies to pursue policies of economic and social advancement

<sup>18</sup>Quite famous, see also: Fukuyama, Francis. *The End of History?* *The National Interest*, No.16, 1989, pp.3-18.

and stability. As liberal internationalism became the platform for the wider global order, this sense of shared social purpose and security community eroded (Ikenberry, 2018, p.10).

According to Deudney and Ikenberry (2018), the expansion of capitalism and the markets led to an increase of social inequalities as the gains of globalization were distributed unequally among and within countries. New democracies that tried to adapt and integrate failed, for lack of tradition and habit to sustain democratic institutions, and migratory waves triggered xenophobia. This is why the crisis, for them, can be understood as a crisis of success. The reason for the crisis of order was the success of the order because of its expansion and the triumph of the U.S. after the Cold War.

They argue that it is necessary to think about liberal internationalism as more than a creation of U.S. hegemony, but as a long-standing set of ideas and principles that organize and reform the international order, with progressive norms that have led the order to differentiate itself from the beginning of the twentieth century to the twenty-first century. The order is changeable and therefore capable of reform. But the solution to the current crisis is a return to the foundations of liberal democracy. Depending on the ability of the U.S., Europe and the new liberal democracies to lead and support the order and its reforms.

To reduce inequality, political leaders will need to return to the social democratic policies embodied in the New Deal, pass more progressive taxation, and invest in education and infrastructure. To foster a sense of liberal democratic identity, they will need to emphasize education as a catalyst for assimilation and promote national and public service. In other words, the remedy for the problems of liberal democracy is more liberal democracy; liberalism contains the seeds of its own salvation. (Deudney; Ikenberry, 2018, p.18).

The solution of returning to the foundations of liberal democracy sounds contradictory, to say the least, as does the authors' own argument as to the reason for the crisis. Critical authors such as Inderjeet Parmar (2018) argue that it's not the success of the order that leads to the crisis, it's the success of capitalism, based on unequal accumulation of capital. The solution, then, is not more liberal order, but precisely less liberalism, since economic liberalism led to the crisis. The order, however, has encouraged and continues to encourage less and less state intervention, especially in countries outside the Western core.

Robert Kagan believes that the predominance and survival of the liberal order depends on the hegemonic stability of the U.S., and that the decline of U.S. power would therefore necessarily generate a crisis of the order. But for Lehti and Pennanen (2020), the crisis is not just one of U.S. hegemony, but a Western one, something that Deudney and Ikenberry (2018) agree with as stated above. Re-using the metaphor that the order is a garden, Lehti and Pennanen highlight that Kagan considers that:

[h]istory is returning and nations are reverting to their old habits and traditions: authoritarianism, illiberalism, great power competition, geopolitics, territorial aggression, nationalism, and tribalism — all of which, historically speaking, manifest themselves as something more ‘natural’ than the tended garden of the liberal order. These are the vines and weeds of the jungle, and the main representatives of the jungle are nations such as China and Russia (Kagan, 2018, pp.10-11, 105, 121, 150 apud Lehti; Pennanen, 2020, pp.19-20).

Disagreeing with him, Lehti and Pennanen argue that:

the crisis brews within the head gardener and the garden. The vines of the jungle are slowly returning and re-rooting ‘even in the heart of the West.’ There is a pervasive feeling of skepticism about the viability and value of the liberal order. And most ominously, the will and ability of the United States to take on the responsibility to care for, and defend, the order has been on the decrease for years. The order is not beyond saving, but it is unclear whether the United States feels it is worth salvaging. (Lehti; Pennanen, 2020, p.20)

Carlos Fortin, Jorge Heine and Carlos Ominami (2023) argue that international cooperation "in formalized and structured instances lies at the very root of the International Liberal Order that emerged at the end of World War II." (Fortin et al, 2023, p.6). But with the election of Donald Trump, this has changed. And his election was not a temporary anomaly, but together with Brexit, signified a turning point from the concerns of the Anglophone great powers to their own problems, and created a space in the LIO that other powers could occupy (Heine, 2023). Barry Buzan and Michael Cox (2022) point to an erosion of Anglo-American authority, and that the order is experiencing a shift from a world order dominated by the West to one of profound pluralism, and that the China-U.S. power shift is only part of it, with power being transferred

to other actors as well, similar to the idea of a space in the order that Heine points out.

Heine seems to present an answer to Lehti and Pennanen's (2020) question, considering Trump as a significant milestone in U.S. foreign policy, as he understands that since Trump's election, with Joe Biden already in office, "the concern in the United States has ceased to be foreign policy as such, let alone the maintenance of a certain international order", and that now the objective has become "how to deploy foreign policy to strengthen domestic electoral support, regardless of the damage that this may cause to the international position of the United States" (Heine, 2023, p.20). This means that the U.S. position on multilateralism has changed even though Trump left the White House, and consequently, the U.S. position on the ILO would also have changed, with the country's priorities changing. Something that happened not only because of Trump's mandate, which had a major impact, but also because of what Buzan and Cox (2022) pointed out.

Tim Heinkelmann-Wild, Andreas Kruck and Benjamin Daßler (2021) understand that:

The Liberal International Order (LIO) is in crisis and the crisis stems from within: The United States has turned against some of the major multilateral institutions that it once constructed to underpin the LIO. Under President Donald Trump, criticism of international institutions has become a linchpin of U.S. foreign policy rhetoric. (Heinkelmann et al., 2021, p.69).

They identify two most common lines of thought to explain the U.S. 'turn' against the LIO. One would be the hegemonic decline, where a change of power in the system causes the U.S. to lose interest in the order, as Murphy (2004) also points out years before. The other is populist-nationalism, where anti-global forces push the U.S. and other Western countries to shape their positions on international institutions. What Trump represents, according to this line of thinking, is a populist movement aimed at destroying or hurting the LIO, fomented by anti-globalist and anti-liberal sentiments on a significant part of American society, in disagreement with Deudney and Ikenberry. Heinkelmann-Wild, Andreas Kruck and Benjamin Daßler propose that although these perspectives analyze important aspects of the LIO crisis, we should think of it as a crisis of liberal hegemony, and that the dual problem of the LIO "is that the U.S. under President Trump has been undermining its liberal ideational underpinnings, as the populist nationalism strand foresees, and is increasingly withholding material contributions crucial to its functioning, as

the power shift strand predicts." (Heinkelmann et al., 2021, p.71). Murphy (2004) argues in a similar way, pointing out that a change in the United States regarding International Law and multilateral institutions, and consequently regarding order, has been taking place for years. It's not something specific to one president, but a change in American behavior in the face of the loss of hegemony and power.

For all the authors mentioned so far in this section, Trump is related to the crisis, being "less a cause than a consequence of the failings of liberal democracy." (Ikenberry 2017, p.2). However, something relevant is argued by Ikenberry and Deudney, that resonates with Murphy's points above, which was not found in the rest of the literature on Trump and LIO used here. By calling into question the traditional role of the U.S. as the leader of the liberal order, Trump "has sometimes acted in ways that fulfill, rather than challenge, the traditional American role in it", and on the most important issues, "Trump's foreign policy, despite its 'America first' rhetoric and chaotic implementation, continues to move along the tracks of the American-built order." (Deudney; Ikenberry, 2018, pp.23-24). The cumulative effects of Trump's policies have not been to bring down the system, but to stimulate adjustments to it.

Alexander Cooley and Daniel Nexon see that comments about the slow collapse of the liberal international order — which they consider a problematic form of describing the U.S.-led system since the end of World War II — became popular with Trump's election. They believe that these comments had good reason to be made.

During his successful campaign for the presidency, Trump routinely disparaged NATO and other lynchpin American security relationships, rejected any serious role for democracy promotion and respect for human rights in American foreign policy, and scorned the value of multilateral diplomacy and institutions. [...] [D]espite inconsistency when it came to concrete policy, *Trump remained ideologically and temperamentally committed to unraveling American-led international order*. Trump's dispositions also appeared to portend changing domestic U.S. attitudes about America's global leadership role (Cooley; Nexon, 2020, pp.1-2, emphasis added).

The 'America First' agenda is anti-internationalist, and it was a risk for the durability of the 'American international system'. Although International Relations scholars tended to see the U.S. hegemony, the order based on international liberalism and market democracy with the U.S. as the global order, as durable, since the mid-2010s this has been put into question.

The United States had spent over four trillion dollars fighting wars, with mixed results, in Iraq and Afghanistan. These conflicts, and especially the Iraq War, damaged American prestige and exploded the image of invincible American power. In 2014, in response to what it perceived to be a US-backed coup d'état in neighboring Ukraine that ousted President Viktor Yanukovich, Moscow annexed Crimea, supported insurgents in eastern Ukraine, and ramped up its efforts to destabilize Western democracies. In 2015, Russia intervened in the Syrian civil war. Far from a partner and ally, Moscow increasingly committed Russian resources to undermining the American international system. As of 2019, the Chinese economy is, in nominal terms, on track to surpass that of the United States. In purchasing-power parity terms, it already did so in 2014 (Cooley; Nixon, 2020, pp.2-3).

This can be seen as signs of a general power transition. The leading power faces difficulties, and its power in the order declines, opening space for new arrangements to be made or positions to be occupied — as Heine (2023) argues. “However, American hegemony can unravel without anyone ever firing a shot”, and they argue “that the international system has already gone quite far down several pathways out of hegemony.” (Cooley; Nexon, 2020, p.3). Trump can be seen as accelerating this journey, but the unraveling of American hegemony started before and will continue after him. “Indeed, Trump himself is as much a symptom of these developments as a cause, which has implications for those hoping to reverse his impact on international order.” (Cooley; Nexon, 2020, pp.3-4). Still, the international system of rules and institutions that govern relations, has proved to be resilient despite the wane in American power.

The order that emerged after the Cold War has already been discussed, but it can be added that in this liberal order

the European Union, the United States, and other advanced industrialized democracies were, generally speaking, on the same page when it came to development assistance, human rights, international security, anti-corruption measures, trade, and other aspects of international order. While they might disagree over specifics, or sometimes let commercial or power-political interests take precedence, they tended on balance to push liberal notions of global governance. This meant that other countries lacked exit options when it came to matters of security or economic development; they had little choice but to play by the rules set by wealthy liberal democracies (Cooley; Nixon, 2020, p.7).

What is more important here is the challenges against American hegemony, with at least two great powers as adversaries that aim to change the current international order — Russia and China. Although they sometimes partner against the U.S., Russia and China have different tools and strategic goals to challenge the current hegemon. By 2019, there were other problems. “Right-wing illiberal counterparts now challenge them [the West] on matters ranging from lesbian, gay, bisexual, transgender, and queer (LGBTQ) rights to ethnic diversity to liberal-democratic governance.” (Cooley; Nexon, 2020, p.12).

The authors also see the popular uprisings and regime changes in the Color Revolutions mid 2000s and Arab Spring in 2011-2012 as having a role in this illiberal shift.

Western governments and media framed these political changes as democratically inspired. But they sent alarm bells ringing throughout authoritarian and illiberal regimes, who took note of the geopolitical threat posed by the democracy and human rights promotion agenda. [...] In other words, the norms of democracy and their civil-society champions shifted from an often-desirable ticket into Western order to a security threat. [...] Important changes also happened within the core advanced industrialized democracies. By the mid-2010s, the proliferation of illiberal networks challenged the mainstream political consensus within the West. These sometimes took the form of left-wing radical parties but more often of right-wing parties and movements. They openly questioned the values of international liberalism. They attacked the authority and questioned the benefits of continued membership in major institutions such as the EU and NATO. While such movements and ideologies dated back decades, two developments helped tip the balance more toward a generalized “illiberal turn” in the West: the Great Recession of 2008 and the refugee crisis in Europe. [...] [I]lliberal parties also have developed transnational ties to one another; they receive both financial and moral support from, among others, Moscow — which views them as an instrument for wedging apart democratic governments and cultivating friendly regimes (Cooley; Nexon, 2020, pp.13-14).

Anti-order movements did not start with Trump, but they only started receiving attention after Trump’s campaign and Brexit, they argue. These processes are interdependent and provide positive feedback for one another.

Contrary to much public commentary, the Trump presidency is not a primary cause of the dynamics weakening the American international system. It is both a symptom and an accelerant of processes of hegemonic unraveling. Trump's presidency has certainly raised significant doubts about the durability of America's commitment to the system it helped construct. But [...] these pathways out of hegemony were already operating before 2017. Unfortunately, until very recently they have too often ignored or dismissed, whether by "the blob" (the mainstream consensus on foreign affairs associated with major liberal- and conservative-leaning think tanks and policy officials) or American international-relations scholars (Cooley; Nexon, 2020, p.14).

Trump's government faced the analytical question if it was possible to dissociate the maintenance of American power from key and liberal elements of the American hegemonic system. Usually, the purpose of hegemonic order is to maintain a system that benefits the hegemon, meaning that hegemons revise the order they helped to build at their own peril. And this is the character of Trump's government, in which he and "some of his advisors openly regard supporting the infrastructure that helps maintain this system — multilateral alliances, international organizations, and at least some commitment to liberal values — as a threat to American power." (Cooley; Nexon, 2020, p.15).

Additionally, Trump had a public admiration for regime leaders from Russia, China and Saudi Arabia that deeply contrasted with the traditional democratic allies of the United States. For Cooley and Nexon, Trump prefers bilateral bargains than international commitments, and his administration was convinced "that making aggressive increases in military spending, planning for nuclear modernization, and scrapping agreements that constrain American security policy will ensure that the United States retains the necessary military superiority to triumph in the geopolitical scrap heap." (Cooley; Nexon, 2020, p.15).

What has been argued by different authors here, with the exception of Ikenberry and Deudney, is that the crisis of the LIO is a consequence of its problems. It can be understood as a matter of American decline of hegemony, or unequal distribution of gains due to capitalist politics, or the rise of right wing radicals. Despite these different analyses, it is agreed by all that Trump is somewhat related to it. He can be just a symptom, or using the Alt-Right platform, or even being part of Far-Right. Exceptionalism is missing, however, from the previous discussions, but will be explored shortly .

## 4.2

### Far-Right, United States and Liberal Order

Thomas J. Main argues that “the conservative movement, the Republican Party, and American politics in general are today in a crisis that is both reflected in and caused by the crystallization of the Alt-Right.” (Main, 2018, p.3). He sees the 2016 presidential election of Donald Trump and his ties with Stephen K. Bannon, who coordinated his campaign, as the change of Alt-Right from obscurity, to infamy. Main’s book contains multiple statements and interviews, conducted by him, of Alt-Right individuals, being a powerful source to understand their thinking.

Why is the Alt-Right so widely perceived as a new threat to Republicans and indeed the republic? At first glance, Alt-Rightism seems to be no more than a collection of well-known far-right talking points. It supports the mass deportation of undocumented immigrants and protectionist trade policies. It opposes feminism, diversity, globalism, gun control, and civil rights. Are such positions, which have been staples of the conservative movement for years and about which reasonable people may differ, any more problematic now than they have ever been? Is the Alt-Right’s heated rhetoric really more problematic than the conspiracy-mongering and race-baiting found at the fringes of the right for decades? In fact, the Alt-Right is far more radical and dangerous than the right-wing extremism of past decades. For it is the underlying ideology of the Alt-Right, rather than its controversial policy positions, that merits concern. In the following statements, prominent Alt-Rightists sum up their ideology: [...] Jared Taylor (editor, *American Renaissance*): “What is the Alt Right? It is a broad, dissident movement that rejects egalitarian orthodoxies. These orthodoxies require us to believe that the sexes are equivalent, that race is meaningless, that all cultures and religions are equally valuable, and that any erotic orientation or identification is healthy. These things we deny. The Alt Right is also skeptical of mass democracy. It opposes foreign aid and foreign intervention — especially for ‘nation building.’” (Main, 2018, p.4).

The same individual, Jared Taylor, also claims that the things that people love about America are not rooted in certain principles, but certain people — white people. “In short, this new strain of reactionary thought goes beyond the garden-variety racial prejudice of yore — which certainly was bad enough — to

a root-and-branch rejection of American political principles.” (Main, 2018, p.7). ‘Alt-Rightism’ is better understood as a political ideology, and it represents the first new actual competitor in the West to democratic liberalism. The author provides the following distinctive features of the Alt-Right:

- ◆ A rejection of liberal democracy. The Alt-Right holds, in essence, that all men are not created equal and concludes that liberal political principles, broadly understood, are obsolete.
- ◆ White racialism. A polity can be decent only if the white race is politically dominant.
- ◆ Anti-Americanism. As racial equality has displaced white dominance, the United States of America has declined and no longer merits the allegiance of its white citizens; they should transfer their loyalty to the white race.
- ◆ Vitriolic rhetoric. The propensity for intemperate language often found at the ends of the political spectrum is taken by the Alt-Right to lengths previously seen only among fringe elements. The movement rejects the standard ethics of controversy and indulges in race-baiting, coarse ethnic humor, prejudicial stereotyping, vituperative criticism, and the flaunting of extremist symbols (Main, 2018, p.8).

Main is interested in determining if the Alt-Right thought represents a radical break with American political principles. Not because radical breaks are necessarily good or bad, but because “fundamental break with liberal democracy is a matter of deep concern” since “liberal democracy has served the country and the world well and the alternatives to it are very unappealing.” (Main, 2018, p.123). He finds that foundational documents, such as the Declaration of Independence, the Federalist Papers, the Constitution, and important figures, i.e. Abraham Lincoln, are all targets of the Alt-Right. But their “racialist and inegalitarian account of American foundational principles is grossly incorrect.” (Main, 2018, pp.123-124). This does not mean that American political principles and practices are free of racism and provide the perfect view of liberal democratic ideals. Still, Main considers that the interpretation the Alt-Right has of the foundational principles is not honest nor comprehensive, and it is rather biased.

For instance, “the best way to appreciate the radicalism of the Alt-Right is to note that it is based on an explicit and fundamental rejection of the principle that all men are created equal.” (Main, 2018, p.128). Although they believe that all men have the right to life, liberty and pursuit of happiness, this

does not mean that people of all races have the same rights and are equals. The Alt-Right reading of Thomas Jefferson is that “people are born with rights; they do not receive them from the community. [...] For rights to serve as such a standard of judgment, men have to be born with them — created equal.” (Main, 2018, p.134), and you can only be born with rights if you are born white.

Alt-Right ideology involves a root-and-branch rejection of all the central propositions of American political philosophy and of liberal democracy in general. Rights, political equality, the rule of law, electoral democracy, and constitutionalism are all discarded, sometimes with certain caveats, often with disgust. The Alt-Right is not merely a more right-wing and politically incorrect version of conventional American conservatism; rather, it is a radical and intemperate break with the country’s entire political tradition and order (Main, 2018, p.164).

With their ‘demonization’ of foundational political principles, the Alt-Right is not a rational exposition of American Nationalism. In fact, it seems that they have a revulsion toward the United States. ‘Alt-Rightism’ can be partially “defined as anti-Americanism, a radical critique and intemperate dislike, on balance, of present-day, actually existing America: its society, culture, government institutions, history, and multiracial, multiethnic population.” (Main, 2018, p.195), and it “often replaces patriotism with race consciousness, to the specific detriment of the United States.” (Main, 2018, p.197).

The Alt-Right anti-Americanism often refers to the ‘real’ America, being a different entity as the United States. Their “allegiance to the supposedly more real America is professed while the present United States is declared to be an alien entity or even the enemy.” (Main, 2018, p.197). The ‘real’ America idea refers to no previous government, but the historic nation, the people that created the nation — made of whites only. Main sees the Alt-Right thinking and movement fundamentally lacking seriousness. He was willing to hear them out for the book, but found out they had little worthwhile to say. In addition,

the irresponsibility of Alt-Right rhetoric is striking. Alt-Rightists excoriate the United States as a farce, a nightmare, and a dung heap, boldly advocate secession or disunion, and then blandly assure us that this desperate scheme will be achieved “peacefully, without violence,” through a “humane process of ethnic cleansing.” These perfunctory reassurances are entirely unconvincing (Main, 2018, p.207).

Trump is not necessarily Alt-Right or Alt-Lite<sup>19</sup> for the author. What connects him to these movements is his policy agenda — anti-immigrant, antiglobalist, protectionist, populist, Russophilic, nationalistic, and more. The spread of Alt-Right material and dissemination of ideas through digital media is also something Trump has in common. The Alt-Right will succeed (and it has), when someone ambitious and somewhat ruthless uses their ideas to serve their own ambition. Trump did that.

The Alt-Right ideology of

rejection of liberal democracy and advocacy of racialism, anti-Semitism, and anti-Americanism [...] contributes nothing positive to the stock of ideas available to American political discourse. This is not to say that the political concerns and policy suggestions the Alt-Right advances deserve no consideration. Immigration restrictions, protectionism, a nationalist foreign policy, and welfare state populism are all legitimate topics of debate, whatever one finally concludes about them. What is problematic is when these or any other proposals are presented as part of an ideology that values authoritarianism over democracy, substitutes the interest of one race for the general interest as the goal of political activity, and intemperately rejects the legitimacy of the country overall, lock, stock, and barrel (Main, 2018, p.231).

Cas Mudde (2022) sees the Donald Trump election as not a trendsetter of a global Far-Right, since this movement started at least twenty five years earlier in Europe. The change from ‘American exceptionalism’ to the U.S. being part of the global trend of democratic backlash can be welcomed by Trump’s opposition. However, this “ignores important, uniquely ‘American’ cultural, historical, and institutional attributes that make the United States more at risk for democratic erosion than most other established democracies.” (Mudde, 2022, p.102).

Still, according to Mudde, even though the Far-Right is not new, their politics only gained political force in most democracies in the ‘fourth wave’ of the twenty-first century. This ‘fourth wave’ came to be from three crises: 9/11 (and the following terrorist attacks), the great recession of 2008, and the so-called refugee crisis of 2015. All western democracies were affected in different ways by these crises, and the national and international political status quo

<sup>19</sup>Individuals not bold enough to publicly embrace white nationalism. See: Ma, Cindy. What is the “lite” in “alt-lite?” The discourse of white vulnerability and dominance among YouTube’s reactionaries. *Social Media + Society*, Vol.7, Iss.3, 2021.

was disturbed. This wave is characterized by the mainstreaming of the Far-Right, the heterogeneity of the groups, an increase of harder policies towards immigrants, and an ‘expansion’ of its relevance outside of Europe (Mudde, 2019). In 2019 and 2020, populations of the U.S., India, Brazil, Poland and Hungary, to name some, lived under Far-Right rule.

The Right encompasses all ideologies, individuals, and groups that believe that social inequalities are natural and should be protected rather than overcome by the state (Bobbio 1997). The far right includes (only) the extreme right and the radical right—not the liberal democratic or “mainstream” right. Extremists reject the essence of democracy, that is, popular sovereignty and majority rule; while radicals accept this but reject fundamental aspects of liberal democracy, such as minority right, rule of law, and separation of powers (Mudde 2019). Today, most relevant far-right groups and parties are radical right, while extreme right groups tend to be more local and marginal. Things are shifting, however. The contemporary far right does not just vary in terms of ideology and, partly related, political relevance (Mudde, 2022, p.103).

They vary in the type of politics they focus on, such as street politics or electoral politics. Another variety to the mix of electoral politics is that Trump was elected through a mainstream party, something Jair Bolsonaro repeated a few years later in Brazil<sup>20</sup>. This did not mean that the Republican Party was Far-Right, or that it changed in this direction. Still, the Republican establishment embraced and supported Trump.

As a consequence of both slow structural transformations and quick political shocks, or “crises” such as the terrorist attacks of 9/11, the Great Recession, and the so-called refugee crisis, far-right parties and politics have become (more) mainstreamed and normalized around the world. [...] But the mainstreaming and normalization is not limited to the political realm. Many media have long advanced far-right frames and obsessed over “far-right issues” (like corruption, crime, and immigration), but most

<sup>20</sup>Mudde considers the Social Liberal Party, the one Jair Bolsonaro used to run for election in 2018, as a mainstream party. It was a rather small party, with few representatives elected before Bolsonaro. Bolsonaro never had a party to call his own, continuously changing and using them as temporary homes for him to be elected. He has been part of nine parties since his political career started in 1989. In 2021, Bolsonaro joined the Liberal Party that could be considered ‘moderate’ or ‘center-right’ before him. But after his entry, more conservative and even Far-Right members entered the party, causing internal clashes.

would neither publish articles by far-right politicians and public intellectuals nor support far-right parties. Today, there is a growing number of new (online) far-right media (e.g., Breitbart News), conservative media that have become mouthpieces for the far right (e.g., Fox News), and liberal media that regularly publish far-right politicians and pundits (e.g., New York Times). Not to speak of the impact of social media, through which the far right is able to reach billions of people directly, but also indirectly, as traditional media increasingly amplify loud social media voices. Simply by being U.S. president, the most powerful and visible democratically elected position in the world, Trump was crucial in furthering this process of mainstreaming and normalization. When “the leader of the free world” makes nativist and populist statements, they are automatically mainstreamed and normalized inside and outside of the United States (Mudde, 2022, p.104).

The mainstreaming of the radical right led to the boundaries between conservatism and Far-Right becoming increasingly less clear.

Of course, Trump has been a prime example of this broader phenomenon. In many ways, he is a hybrid (U.S.) conservative far-right politician and also governed as such. In line with the far right, he emphasized opposition to immigration (“Build the wall”), propagated authoritarian measures (“I am your president of law and order”), and claimed to represent the pure people against the corrupt elite (“Drain the swamp”). But in line with conservatism, and the Republican Party establishment, he gave tax breaks to the rich and deregulated and defunded the state (Mudde, 2022, p.105).

Another consequence is its radicalization. “When the key frames and issues of the radical right are increasingly normalized, and propagated by mainstream parties, radical right parties and politicians have to radicalize even further to stand out from the mainstream.” (Mudde, 2022, p.105). Trump is also a prime example of this. “Not only did he have a well-established track record of antisemitic and racist statements before he entered politics, he continued them as president. [...] But he also openly praised the (violent) extreme right [...]. Further, he has a record of inciting violence” (Mudde, 2022, p.105), e.g. the Capital invasions on January 6, 2021.

According to Mudde what distinguishes Trump from the rest of Far-Right presidents and leaders worldwide, is partially the threat to liberal democracy it

meant for the U.S.; he argues that this threat was more acute and significant in American democracy than most countries, with the possible exception of Brazil, India and Poland.

The way that Trump came to power remains unique. While there have been more directly elected far-right presidents, and even far-right presidents that were elected on the ticket of a non-far-right party, Trump came to power as the candidate of one of the (two) major parties of the country, which at that time was not (seen as) far right. [...] Given that roughly 90 percent of Republicans voted for Trump, the 2016 presidential election was an ordinary victory for the Republican Party rather than an exceptional victory for Trump (Mudde, 2022, p.106).

The Republican Party slowly became Trump's party, but

most of his four years in office were characterized by an awkward and often contentious power-sharing relationship of Trump and the Republican establishment. [...] In this sense, his relatively limited damage to U.S. liberal democracy is more in line with (right-wing) populists in government coalitions than with far-right one-party rule (Mudde, 2022, p.106).

As seen previously, Cooley and Nexon define Trump and Trumpism as “accelerants and symptoms of broader processes”, and although there have been great powers who have adopted policies of retrenchment, “few expected that American politics would produce a president with as thoroughly revisionist an outlook as Donald Trump.” (Cooley; Nexon, 2020, p.159). Trumpism can be seen as a counter-order movement that challenges the American international system and the liberal ordering inside ‘advanced industrial democracies’.

When it comes to international principles of human rights, democracy, and transparency, Trump's predecessors were inconsistent and hypocritical. Trump, in contrast, is generally indifferent if not outright hostile. By scaling back American influence in international organizations, seeking to reduce Washington's role in the field of foreign aid, and generally lifting America's thumb off the scales of human rights and democracy, Trump does his best to help strip contemporary international architecture of some of its liberal features (Cooley; Nexon, 2020, p.160)

Different from other administrations that changed or tried to change the infrastructure of the American system, such as the Bush administration sidelining the State Department, Trump damaged its core competencies. American foreign policy suffered from politically motivated moves, making moves that advanced hegemonic decline at home but also abroad, with his behavior towards alliances and partnerships.

It has become fashionable to stress continuities between Trump and his predecessors, especially in light of Trump's failures to fully implement his foreign-policy dispositions. While such analysis does serve as a useful corrective, it risks understating Trump's distinctiveness. Recall the three major arenas of liberal ordering: political, economic, and intergovernmental. As the Cold War developed, a number of tensions emerged around liberalism in American foreign policy rhetoric and practice. Should the United States prioritize multilateral governance, even when doing so empowers illiberal forces, helps rival powers, or requires setting aside immediate strategic gains? Should the United States instead ignore multilateral governance when it, for example, protects illiberal domestic arrangements in other states — whether in the form of violations of human rights, undemocratic institutions, or closed economic policies? Even within these broad trade-offs, policymakers often faced more specific dilemmas, such as whether to privilege democracy or open markets. This led American policymakers, for example, to sometimes support autocratic regimes that pursued economic liberalization, while opposing democratic regimes that adopted socialist policies. Power-political expediencies often attenuated, or simply overwhelmed, these tensions between different dimensions of liberal ordering. The United States supported plenty of autocratic governments, human-rights abuses, and atrocities — whether out of broader geostrategic concerns or narrower economic interests. Some of the governments it formed close partnerships with, such as that of the Kingdom of Saudi Arabia, remain major human-rights abusers. Washington also overthrew or undermined democratically elected governments (Cooley; Nexon, 2020, p.163).

After the Cold War, these tensions shifted. The terrorist attacks on September 11 contributed to the strengthening of neoconservative foreign policy principles by the Bush administration. The specifics of the so-called 'Bush doctrine' are not relevant for the discussion of this dissertation. However, it is

important to mention that the authors explore the debate if multilateralism also means to support even illiberal regimes, or if this goes against other principles of the order, that are just as important or even more than multilateralism — such as democracy. Overall, before Trump, the action plans on supporting illiberal regimes from previous administration were within the same parameter:

Most participants [on foreign-policy debates] agreed on the broadest contours of the convergence wager but disagreed on how to handle the trade-offs between liberal intergovernmentalism and liberal enlargement. They differed in their assessment of the relative threats to American interests and liberal ordering posed by non-state forces, such as transnational terrorism and climate change, and states, such as China, Russia, and Iran. They argued over how much to compromise concerns for democracy and human rights in light of other geostrategic interests. But very few challenged the idea that the United States benefited from some kind of liberal order or from preserving the pillars of the American international system, most notably the NATO alliance (Cooley; Nexon, 2020, p.165).

According to these authors Donald Trump is different. His solution for Washington's hypocrisy of advocating for liberal values, but still supporting illiberal regimes and invading other countries, was to renounce the liberal ordering. He rejected all of its infrastructure and portrays it as horrible deals for the U.S. — from NATO, to trade agreements and the American budget for foreign-aid.

Every flavor of foreign-policy liberalism, and even some forms of realism, believe that international agreements can be positive-sum: that all participants can find themselves better off. Trump's rhetoric was, and continues to be, relentlessly zero-sum: the United States does better when other states are doing worse. Trump trashes institutionalized multilateralism and prefers cutting bilateral deals. He's not wrong that multilateral negotiations can dilute American bargaining power by allowing other states to form united fronts against American demands. But those agreements may also be less durable and thus riskier given the continued erosion of American relative economic leverage. The advantages of isolating negotiating partners also erode if other states pursue cooperation, multilateral or otherwise, while the United States sits on the

sidelines. [...] alternative-order building reinforces liberal aspects of international order, but at the potential cost of the strength of the American system (Cooley; Nexon, 2020, p.167).

Trump's stance does not mean that the U.S. should stop having or strengthening relationships with illiberal regimes. It should stop doing what causes these relationships to be seen in a bad light. "The Trump administration has consistently de-emphasized the importance of human rights and democracy in its rhetoric and practices while adopting language and tropes similar to those of right-wing, illiberal movements." (Cooley; Nexon, 2020, p.170). With this in mind, the strategy makes sense. His policies and strategies that endorsed nationalist right-wing arguments abroad, were also repeated at home. This is not to say that before Trump the U.S. has been consistent in upholding liberal democracy and political rights at home in its fullest. But Trump is different and his administration:

created significant barriers to accepting refugees and took a hard line—including in ways that violate basic human rights—against asylum-seekers. Trump's efforts to delegitimize reporters and media outlets that he views as unfavorable reflect the strategy of the leaders of autocratic and backsliding regimes—some of those leaders have added Trump's signature cry of "fake news" to their rhetorical toolkit (Cooley; Nexon, 2020, p.171).

The threats of the Far-Right to the LIO are not gone. Indeed, Trump's administration was permeated by the Far-Right, but they are still set inside the Republican Party (Parmar; Fuse, 2023). The Trump administration helped mainstream the Far-Right, and legitimized Far-Right advocacy groups and think tanks, while marginalizing those traditionally connected with the White House.

Capitalist globalization – or advanced ultra-imperialism – results simultaneously in reducing inequality of income and wealth between states, while increasing inequality within states. [...] The domestic political effects of this ultra-imperialism, therefore, include mass discontent and resistance, significantly mobilized by the conservative and far-right behind a hyper-racialised programme. Conservative politics saw an opportunity to grow their tent through the integration and mobilization of the far-right into the Trump bloc. Hence, while corporate interests won tax cuts, subsidies and deregulation, the mass of GOP<sup>21</sup> voters received a psychological wage

<sup>21</sup>Grand Old Party. Another name for the American Republican Party.

associated with ‘whiteness’ and cultural protection, not a real increase in living standards (Parmar; Furse, 2023, p.801).

Far-Right forces are not new in the U.S., being active since at least the Great Depression and playing an important role in the anti-communist coalition during the Cold War, with their stance against civil rights, women’s rights and anti-war movements. During severe crises, they have a more prominent political role, and “Trump spoke in ‘crisis talk’ language which transformed the emotional frame of reference of audiences into heightened anxiety and panic about real or perceived threats.” (Parmar; Furse, 2023, pp.801-802).

These authors argue that Far-Right forces can be seen as having resurged since the post-Cold War and post-2008 crisis. It was a consistent reappearance, including among core countries of the LIO. “Far-right figures and authoritarian ideas are now much more mainstream in conventional domestic and world politics”, and “the crisis of elite-democratic legitimacy is systemic, organic, structural; and responses are increasingly authoritarian, populist, and anti-democratic” (Parmar; Furse, 2023, p.802). This means for the U.S. a more aggressive nationalist foreign and national security strategy, against all perceived enemies. It also meant a new hegemonic consensus inside of the country, a Republican one. “Trump’s authoritarianism mainstreamed the language of fear into political discourse, which has shifted to otherwise non-authoritarian voters and politicians.” (Parmar; Furse, 2023, p.803).

Donald Trump has a complex relationship with the American Right. He is partly a symptom of a major rightward shift in twenty-first-century American political terrain. This has largely been engineered by billionaire donor consortia; the Tea Party; right-wing militias; and figures in Christian nationalism responding to the legitimacy crisis of U.S. power. Trump is the political ‘glue’ that holds together this factionalized far-right with conservatives (Parmar; Furse, 2023, p.803).

By having a central role in the Far-Right network, Trump is not a puppet of the Far-Right, even if he benefits from its support.

His nationalism is far from ‘isolationist’ as many on the far-right would prefer, and his conservatism is hardly ‘social’ or ‘traditional’ in character. [...] We suggest that Trump’s ‘philosophy’ (over and above personal interests) is innovative, relatively coherent but mediated by three powerful tendencies – his material base, ideological base, and electoral base – a white racist historic bloc. Each of those three tendencies is subject to internal conflicts, mediated by Trump’s unifying personal influence (Parmar; Furse, 2023, p.803).

Being the ‘glue’, Trump has empowered the Far-Right

ideationally, stylistically, and policy-wise. The coercive character of Trump’s foreign and domestic policies, the harder line on immigrants, Muslims, and America’s strategic competitors and allies, reflects and amplifies those far-right concerns. The far-right is now part of mainstream U.S. politics. In foreign policy, Trump shifted further towards open coercion against China than previous administrations and used this coercion toward the WHO because of its alleged China bias. Blaming China for U.S. Covid-19 deaths became official policy, mobilizing all elements of the far right-oriented Trump coalition. [...] The Trump administration’s coercive policies at home, violation of constitutional norms, increasingly authoritarian attitude towards political opposition and media criticism dovetailed its appeals to white supremacists and armed right-wing militias and use of federal law enforcement violence against protestors. [...] Trump emboldened the far-right’s agency (Parmar; Furse, 2023, pp.809-810).

For Ziya Öniş (2017), the populist radical-right gathered momentum after the 2008 global financial crisis. Global shifts and the subsequent tensions and insecurities, create new sources of resentment and counter-reactions. The author uses the logic of the ‘economy-security-identity triangle’ to explain why right-wing populism has risen. Economic factors, such as rising inequality and unemployment in core Western democracies, generating a new set of insecurities, is only part of the explanation. Besides economic insecurities, there is physical insecurity, with events generating new pressures and tensions: 9/11, terrorist attacks in major European cities, the massive influx of refugees to Europe due to the Syrian crisis. strong fears and anxieties on the part of ordinary citizens.

These identity challenges have interacted with economic challenges in producing a climate of fear, which has provided fertile ground for the growth and cross-national spread of right-wing populism. One of the key elements in this context is that the radical right has been able to articulate the fears of many ordinary citizens through a direct identification of the enemy, a subtle combination of ‘economy’ and ‘identity’, linking it to the ‘multiple insecurities’ that ordinary people feel. Right-wing populism points to the ‘other’ or ‘the foreigner’ as the ultimate cause of everyday problems. The

effectiveness of their message is that the ‘enemy’ is close and visible (Öniş, 2017, p.28).

Donald Trump did that in his 2016 presidential campaign, claiming that “it is exports from China and the influx of migrants from Mexico that are at the heart of the problems encountered by white American workers and middle classes.” (Öniş, 2017, p.28). Foreigners were identified as the cause of the problems the U.S. was facing. “The simple diagnosis of the problem also suggests simple, clear-cut remedies: banning migration or putting restrictions on goods from other countries will help reverse these insecurities and help solve the problem.” (Öniş, 2017, p.28). Trump is also an example of another feature of the new right: powerful and charismatic leaders, that can build wide electoral majorities.

The common denominator of these leaders is their rejection of centrist, consensus politics, as they play directly to the economic and identity concerns of large segments of society through a highly divisive rhetoric coupled with a strong element of nationalism. The language of hatred replaces the language of compromise and consensus. A monocultural vision of society replaces multiculturalism and leads to the celebration of the dominant culture in society at the expense of others.<sup>21</sup> The nature of the dominant or celebrated identity may change from one national context to another. In the United States it may be the white Americans [...] Clearly, race, religion and national identity become part and parcel of the strategy of this new wave of populist leaders who seek to gain popular support through a process of intense social and political polarisation. (Öniş, 2017, p.28).

There is a domino effect in the emergence of charismatic leaders for the populist Far-Right, since “their mutual interaction at the international level seems to reinforce their strength and durability in their domestic politics.” (Öniş, 2017, pp.28-29), signaling the existence of a transnational element in the rise of these groups. But the biggest danger for a liberal understanding of democracy might be the capacity these leaders and movements have to justify their position through their electoral success. It is true that they are elected, and sometimes re-elected, through a competitive electoral process. But the problem is once in power, they use it against the system that elected them. The characteristics of ‘majoritarian’ and ‘electoral’ become a challenge for liberal democracy.

Most of these right-wing populist leaders are elected through normal elections. But once they are in power, they undermine the foundations of the democratic system through a combined process of weakening democratic values and eroding democratic institutions by dismantling the checks and balances mechanisms that constitute the central pillars of a genuinely liberal democratic political system. In the end, what is left is a hollow version of democracy, where only the electoral dimension remains and the other critical dimensions have been effectively eliminated. Even the electoral contest may lose its significance as the dominant majoritarian party effectively institutionalises its rule and undermines any kind of opposition through powerful restrictions on freedom of speech, opposition, press and media (Öniş, 2017, p.29).

Hilde Restad (2020) has been studying exceptionalism, the United States and its foreign policy for a long time. She argues that the American leadership in the LIO from 1945 to 2016, “particularly since the end of the Cold War, partially hinged on the credible promotion of liberal values abroad and civic nationalism at home.” (Restad, 2020, p.1). However, “Trump’s revival of ethnic nationalism at home represents a fundamental contestation of post-Cold War American self-perception, one that has specific foreign policy representations.” (Restad, 2020, p.1).

By civic nationalism Restad means the belief that the ideas that bind Americans together are defined as American exceptionalism or liberal creed, for example. This particular narrative sees the U.S. as “founded upon a set of classically liberal ideas, rather than the “blood and soil” of the Old World.” (Restad, 2020, p.3), being partly why Americans see themselves as exceptional with a superior meaning in comparison to Europeans. “American scholars define U.S. civic nationalism as an inclusive, plural, and civic-oriented kind of nationalism that rests on a narrative of the United States as a ‘nation of immigrants’ who all adhere to the same classically liberal and small-d democratic ideals.” (Restad, 2020, p.3).

But there has always existed an inherent tension in the American national identity, that opposed the idea of a diverse ethnical nation: white supremacy.

Despite this tension, civic nationalism became the hegemonic national narrative after World War II, only gaining in strength with time and apparent racial progress. While this perspective on American nationalism acknowledges instances in history where the United States failed to live up to these civic ideals, they were usually explained away as exceptions to the rule (Restad, 2020, p.3).

The election of Trump challenged this narrative of exceptionalism and of an intrinsic progressive character at home and abroad. Despite saying multiple racist remarks, the incentive to fear white supremacists, and the choice of not standing up for the American creed domestically and liberal values internationally, Trump remained highly supported by his voters. This indicates that ethnic nationalism is still strong in the country. The national identity of the U.S. is not only civic ideals and liberal tradition, but rather, a complex identity encompassing at least two contradictory strands.

Restad argues that ‘America First’ combines ethnic nationalism at home with a right-wing nationalist outlook on world politics, viewing international politics as a ‘clash of civilizations’ which can be seen in its unprecedented public Islamophobia.” (Restad, 2020, p.7)

Trump’s foreign policy can be described by his own administration as the following:

Michael Anton, deputy assistant to the president for strategic communications from 2016 to 2108, argues that the “Trump Doctrine” is based on nationalism and against globalization (the “imperialism of our time”), which is why its “first pillar” is a populist recognition of widespread resistance to the “enforced homogeneity” of globalization. The second pillar of the Trump Doctrine is that the era of liberal internationalism is over. Elitist “Globalism and transnationalism” have cost the United States dearly, Anton argues, resulting in “dumb wars” and “closed factories and declining wages”. The third pillar is “nationalism for everyone”, which means opposition to “supranational superbureaucracies” (the European Union) and multilateral frameworks (like the Paris Climate Accords). The fourth and final pillar is “that it is not in the U.S. interest to homogenize the world”, by which Anton seems to mean opposition to multilateral trade deals and political projects like the EU. [...] In other words, Trump must be placed in the global context of ethnonationalist populism (Restad, 2020, pp.8-9).

The former president uses ‘nationalism’ as a term to oppose ‘liberalism’ and ‘globalism’ “because liberalism represents claims, rights, and responsibilities that transcend national borders. In this sense, (ethno-)nationalism is inherently hostile to liberalism” partially because nations resist having their sovereignty limited by all the universal principles, “but also because most nations give pride of place to particular groups who share an ancestry, native tongue, religion, or ethnicity.” (Restad, 2020, p.9).

### 4.3

#### Trump and International Law

Trump's call to 'make America great again' was willing to overturn the LIO, if necessary. For Carla Norrlof (2018) the aim of the policy 'America first' was to prevent losses from the United States through the type of arrangements and cooperations the LIO had pushed forward. Trump's idea was to negotiate more aggressively, using threats of leaving international agreements and alliances when needed, all in order for the U.S. to restore hegemony. Norrlof argues that internationally 'America first' is based on zero-sum logic that will not 'make America great again', but actually the opposite. And domestically, it is a promise to restore greatness to white people. The author sees the U.S. as being deeply benefited from the LIO, but these gains were unevenly distributed within the country.

[A]n 'us vs them' sentiment, internationally vis-à-vis other countries, and domestically vis-à-vis non-white ethnic groups, was the primary force behind Trump's electoral triumph. While previous presidents have more or less recommitted the United States to an internationalist foreign policy in the face of rising inequality, Trump detected festering economic and political wounds within the United States. The announcement of an intention to 'make America great again' resonated strongly with citizens of a Great Power who hardly felt economically privileged in relation to the rest of the world, and with white non-college-educated voters who were told they benefited from 'white privilege' while experiencing economic hardship and political alienation (Norrlof, 2018, p.65).

Norrlof sees Trump as successfully identifying and targeting the domestic liberal dilemma, where liberal ideals clashed with the maintenance of a racial hierarchy that put 'white America first'.

To fully understand waning American support for the LIO, one must look to the unravelling of America's liberal identity as a principal cause of the less secure domestic foundations of the LIO. Some elements of America's liberal identity, such as 'political democracy, constitutional government, individual rights [and] private property based economic systems', remain intact. However, other elements, such as 'toleration of diversity in non-civic areas of ethnicity and religion' are in jeopardy. In fomenting an 'us and them' division between Americans and foreigners alleged to be exploiting the United

States, and by stoking an internal division between Americans of different ethnicities and faiths, Trump unveiled an international and domestic hierarchy that some thought no longer existed (Norrlöf, 2018, p.78).

Although she does not discuss the question of exceptionalism, her analysis enriches the debate as she points out the tensions among American principles.

Harold Koh, writing in 2017, argues that Trump will not be able to permanently change the nature of the relationship between the United States with International Law and its institutions. The reason is the counter-strategy (and theory) of the Transnational Legal Process, which was being used by transnational actors both inside and outside the American government. To him, the real question in Trump's administration is the struggle between different visions of a future world order.

The United States of America — and its President in particular — are powerful players in the making and unmaking of international law. But the basic idea underlying Transnational Legal Process is that international law is no longer just for nation-states or national governments. What Jeremy Bentham once called “international law”— the law between and among sovereign nations — has evolved into a hybrid body of international and domestic law developed by a large number of public and private transnational actors. These sovereign and nonsovereign actors include our allies; states, municipalities, and localities of the United States; government bureaucracies; the media; courts; nongovernmental organizations (NGOs); intergovernmental organizations (IGOs); and committed individuals. I have argued that these many actors make and remake transnational law — the hybrid law that combines domestic and international, public and private law — by generating interactions that lead to interpretations of international law that become internalized into, and thereby binding under, domestic (in this case, United States) law. These internalized rules create default patterns of international law-observant behavior for all participants in the process. Those default patterns become routinized, “sticky,” and thus difficult to deviate from without sustained effort (Koh, 2017, p.415).

This strategy means that the United States and other like-minded states should choose engagement over unilateralism when faced with this choice.

Meaning that foreign policy problems should be solved jointly, with partners and adversaries “around common values, in search of diplomatic solutions that can be embedded within durable international law principles.” (Koh, 2017, p.417). It is also a strategy that portrays International Law as ‘smart power’, implying that the U.S. should choose whenever is possible a legal translation of law, instead of denying its applicability. The author gives as examples new situations, such as drone warfare and cyber conflict, that did not exist when international laws of war were first drafted.

As a policy matter, the translation approach is superior because law-abiding nations strive to act not based on power or expedience alone, but rather, to cabin their new activity within existing, recognizable legal frameworks. There is a world of difference between saying that we are facing a new situation where there is no law to apply and saying that the existing rules do not exactly cover this new situation, but we are trying in good faith to translate the spirit and intent of existing laws to govern it. In the former circumstance, we are saying that we can make up our own rules and no third party can judge us. But in the latter circumstance, we acknowledge the need to join with others committed to the rule of law to frame a new set of rules that can eventually enjoy international consensus and, ultimately, legal legitimacy (Koh, 2017, p.418).

This strategy would preserve the support of allies and international institutions, also keeping the U.S. on the moral high ground. He also argues that Trump seems to reject similar past approaches from previous administrations. His ‘America First’ discourse can be understood as a promotion of unilateralism.

The Trump approach does not value concerted efforts to translate existing legal rules but rather claims that there are no rules that bind our conduct. Under this worldview, the United States should act based on its perceived national interests, not international rules. The Trump approach seems grounded on claimed national rights, not the universal rights on which this country was founded and that form much of the foundation of modern international law. Finally, the emerging Trump approach seems to rest almost entirely on hard power, offering no visible strategy for bilateral and multilateral diplomatic engagement or any attendant role for the State Department. Trump and his team have shown little or

no inclination to apply an approach that would allow America to leverage the legitimacy of lawful options into a more creative set of proactive solutions to pressing international problems (Koh, 2017, p.420).

Still, “no single player in the transnational legal process — not even the most powerful one — can easily discard the rules that we have been following for some time.” (Koh, 2017, p.420).

When Donald Trump took office, he was faced with international and domestic rules that created a persistent default path to compliance with pre-existing norms. Once in place, this body of law became a “guardrail” for politics, and early signs indicate that most of those guardrails are still holding. A new president cannot simply have his way. Domestic constituencies and interests with institutional authority to push back are doing so, as are foreign allies with shared interests in preserving rules of law within a painfully constructed international system. Government bureaucracies long devoted to pursuing solutions to climate change or promoting diplomacy in foreign policy do not turn on a dime. The United States has become deeply enmeshed in many multilateral regimes, and exit from those regimes is neither immediate nor easy. Most fundamentally, many Americans want what many of these regimes offer, whether it be a nuclear-free Iran or clean energy (Koh, 2017, p.465).

Doug Stokes argues that there can be much criticism at U.S. leadership of the LIO, particularly about its claim to moral superiority, commonly based on admirable norms, such as human rights and democracy.

For often cynical reasons the U.S. backed authoritarian regimes throughout the Cold War, pursued disastrous forms of regime change after its end, and has been deeply hostile to alternative (and often non-western) civilizational orders that reject its dogmas. Its successes, however, are manifold. Its ‘empire by invitation’ has helped secure a durable European peace, soften east Asian security dilemmas, and underwrite the strategic preconditions for complex and pacifying forms of global interdependence (Stokes, 2018, p.133).

To him, the commitment to maintain the LIO has been carried on since the end of the Cold War, but the election of Donald Trump signals a

destabilizing force to the foundations of the LIO and an interruption to the country's commitment to it.

His administration has actively encouraged the breakup of the EU, questioned enduring U.S. global security alliances such as NATO, and seen the advocacy of an economic nationalism that threatens to reverse globalization. If the dominant cultural paradigm of the early post-Cold War period was the end of history as a triumphant liberal internationalism flattened global geopolitical space, Trump's victory represents the end of this interregnum: a rearticulation of the primacy of the nation-state, a fracture in the postwar liberal internationalist consensus and a hardening of geopolitical revisionism (Stokes, 2018, p.133).

Stokes defines Trump's foreign policy of 'America First' as being a bilateralism based on cost-benefit calculations. It contrasts with the longstanding U.S. post-Cold War globalism that helped to shape American national interest into a role of maintaining the system. Writing in 2018, Stokes did not see the end of Trump's government, but the author never considered Trump as capable of overcoming the deep structures of the system. He was worried about how much damage Trump could do and was willing to do. One thing Trump gave continuity was the foreign security policy — something commonly overlooked, since his foreign economic policy was a clear discontinuity from past governments. His national security strategy was characterized with arrogant and hasty rhetoric, but the security policy abroad followed the line of previous administrations. The author uses the Hegemonic Stability Theory (HST) to explain the structural logic that is the base for hegemonic leadership.

Broadly speaking, HST argues that the international system is more likely to be stable when a single state is the dominant power within that system. The existence of a hegemon helps eliminate collective action problems associated with the generation of often costly global public goods necessary to world commerce and to the underwriting of the political and strategic contexts of global economic interdependence — problems that have long bedevilled international politics. Aside from the alleged efficacy of world hegemonic leadership, what does HST tell us about why a preponderant power would seek this often costly role of global leadership? (Stokes, 2018, p.138).

According to this approach hegemonic leadership is a form of benevolent service to the international community. Not only the interests of the hegemon

would be promoted, but also the collective ones. “The hegemon is benign as its net resource transfers to the rest of the international community through the costs of the public goods it supplies, including security public goods in the form of alliance networks such as NATO, are extremely costly.” (Stokes, 2018, p.139). This implies that the U.S. would be promoting collective interests seeking prosperity, through the exercise of a benign hegemony, and not seeking its own advantages.

In this view, the U.S. has been favoring multilateralism since the end of World War II, with tariff barriers progressively being reduced, and the U.S. deepening its integration into the world economy.

The case for this multilateral image is especially strong for the quarter of a century after 1945, paradoxically because Washington did not, at that time, use its enormous power resources to force open the markets of the rest of the world as a strategy of economic nationalism would have suggested, given the economic ascendancy of American business at that time. Instead, Washington scaled back its earlier plans for a radically open postwar world economy and gave priority to the economic revival of both western Europe and Japan: a necessary step in helping to support the ‘rump’ of the LIO in the Cold War context of bipolarity, while encouraging a gradual winding down of European colonialism lest too rapid a withdrawal create geopolitical vacuums. It is this form of relatively benign leadership that informs the historical narrative of liberal internationalists (Stokes, 2018, pp.139-140).

A second perspective is that hegemony is coercive but still provides public goods and help to sustain the international order, out of self-interest, and willing to coerce other countries into helping to fund its hegemony. To share the costs can be good for hegemonic longevity.

However, using coercion to cover the costs of supplying public goods may create problems for the hegemon in another area, namely that of legitimacy: according to both liberal internationalist and constructivist theorists, consensual regimes help prolong the longevity of the order itself, as other states have ‘voice opportunities’ to help shape the order. That is, there is a trade-off between coercion and legitimacy. As amply demonstrated in the US-led ‘war on terror’ after 2001, coercive hegemony, even in the context of military unipolarity, can only get you so far, as allied states need to reconcile the demands of the hegemon with their own domestic publics.

Push too hard, and it is very likely that both soft and hard balancing dynamics begin to develop, or that one's democratic allies are punished by their respective hostile publics. From this perspective, an American commitment to multilateralism, rather than being benign, is in fact a ruse for promoting free trade in fields where American businesses lead; what we might term an 'informal empire', where free trade makes sense because of the sheer economic preponderance of the hegemon's domestic businesses (Stokes, 2018, p.140).

Stokes offers a third view, that he argues to best explain the nature of U.S. hegemony. The leadership grants the hegemon the position to shape the world order in ways that gives them advantages of not only recovering the costs for providing public goods, but to accumulate other positional advantages. "That is, the hegemon acquires the benefits of cooperation without having to resort to coercion, while reinforcing its position by extracting resources from the rest of the international community and reinvesting them in ways that help prolong its hegemony." (Stokes, 2018, p.141). This can keep going as long as the other states accept the hegemon and the order as legitimate, and as long as the costs to change the status quo remain superior than just staying with it. The U.S. "is thus both a 'system maker' and a 'privilege taker', and accrues advantages through structuring world order in ways that benefit its interests while delivering enough benefits to other states to discourage them from seeking to revise the US-led order." (Stokes, 2018, p.141). For the author, the crisis in U.S. leadership predates Trump. His rise and the social (Far-Right) forces that emerged with him "are rooted in the very successes of the globalized model that U.S. foreign policy elites have promoted in the postwar world." (Stokes, 2018, p.148). This implies that in his view the cause for Trump's rise to power is American politics, although he does not develop this.

For Mark Pollack (2023), Trump's administration represented the most significant 'change agent' in recent time for the international legal order. He represented "a declining hegemon that had pioneered the creation and management of the leading institutions of the international legal order" and he "reversed US policy towards a wide variety of agreements and institutions, from trade and arms control to climate change and public health, withdrawing from or attacking these pillars of the American-led legal order." (Pollack, 2023, p.35). Pollack works with an international legal framework that analyzes 'change agents', and looks into their ends and means. The author presents two theoretical ideal-types regarding the ends and means: a 'traditional change agent' and a 'hostile change agent'. Both are revisionist agents, but differ in

the ends they seek and the means they use. The traditional change agent “seeks change to existing rules and norms of international law, utilizing established methods such as treaty-making, legal argumentation, and international adjudication” (Pollack, 2023, p.35), while the hostile change agent:

seeks to change, not the rules of law, but rather the rule of law, replacing multilateral rules and institutions with power-based bargaining or coercion; in terms of means, such agents select a ‘state-based’ path, engaging in unilateral tactics such as withdrawal, delegitimation, or paralysis of international legal agreements and institutions (Pollack, 2023, p.35).

Although Pollack focuses on Trump’s administration policies regarding international trade law, he says that in terms of ends and means for this area and others, his foreign policy has elements of traditional and hostile change agents.

Trump’s withdrawal from the TPP represents an effort to exempt the US from the requirements of an international agreement, and might therefore suggest hostility to international law, yet the withdrawal was carried out legally, and represents a long tradition of US failure to ratify international treaties. By contrast, the launching of a massive trade war through unauthorized tariffs together with the paralysis of the AB<sup>22</sup> demonstrate a clear intent to weaken or destroy international rules and institutions, associated with a hostile change agent (Pollack, 2023, p.36).

At least in comparison to previous administrations, Trump’s policies put him in the ‘hostile’ category. Pollack mentions Obama’s administration as being an example of ‘traditional change agent’, that sometimes can resort to means that seem contradictory, “including taking actions of questionable legality to assert new legal precedents, ‘forum-shopping’ for groups that are more receptive to their views, and threatening to withdraw from agreements to increase their bargaining leverage.” (Pollack, 2023, p.39). But they are used selectively, and do not aim to destroy the legal order, being a ‘tougher’ form of persuasion on others to accept the changes.

A minority of scholars see Trump as being a traditional change agent that used disruptive, but still legal, tactics only as leverage. He only targeted high-profile agreements, and existed through lawful means, leaving most U.S. commitments untouched. Indeed, Trump’s record may compare favourably with

<sup>22</sup>Appellate Body of the World Trade Organization.

the George W Bush administration, which withdrew from several international agreements and violated the Geneva Conventions, the Convention Against Torture, and the UN Charter in its war on terror and invasion of Iraq. Trump's greatest impact on international law, in this view, lay not in his 'bite' but in his 'bark'— in his 'harsh, disdainful rhetoric' suggesting that international institutions were 'corrupt, out of touch, elitist, self-serving or harmful to United States interests' (Pollack, 2023, p.39).

The strongest presentation of this idea was articulated by Deudney and Ikenberry (2018), as previously mentioned. Trump is seen by them as "the leader of a declining hegemon determined to shift the terms of international law towards, and the burdens of global governance away from, the US, rather than to undermine international law as such." (Pollack, 2023, p.39). This is a benign interpretation that requires selective reading of evidence and disregarding some, says Pollack. Trump spent no effort trying to renegotiate almost all of the agreements he attacked or withdrew, implying that his end was to undermine International Law.

The hostile change agent seeks to gain freedom from legal constraints, attacking the rule of International Law for that reason. It tries to replace "a law-based system with a power-based system predicated on threats and promises rather than legal rules and processes." (Pollack, 2023, p.40). But why does a government, in particular an American one that represents a founding member of many legal agreements, would seek to weaken or destroy the legal order? Using two ideal-type motivations for hostile change agents, Pollack tries to answer this, although he warns that there is a risk of oversimplification. There are the 'realist' and the 'populist' hostile change agents.

The realist change agent is more straightforward — a statesman who decides that his national interests will be served more effectively through power-based bargaining than through international law. This option is most likely to appeal to great powers — either rising powers unhappy with laws drafted by the powers of the past, or declining powers that can no longer control outcomes but are still paying the lion's share of public goods provision. Either way, and consistent with hegemonic stability theory, the expectation is that shifts in the balance of power will destabilize existing agreements, leading dissatisfied powers to reform existing institutions and, failing that, to withdraw from or undermine them (Pollack, 2023, pp.40-41).

In contrast, the populist change agent

is a domestic leader motivated by his own political interests, repudiating existing agreements insofar as doing so might secure support from domestic constituencies. Populist leaders, in this view, may find it convenient to scapegoat international agreements and institutions, and to mobilize public opinion against them. Populist leaders are particularly likely to engage in backlash against international courts, whose rulings can be depicted as foreign impositions on ‘the will of the people’. Whatever their motivations, hostile change agents seek to escape the constraints of international laws, whether through systematic non-compliance or unilateral withdrawal (which might leave the institution intact, though weakened by free-riding) or else through active efforts to delegitimize, paralyse, or destroy those laws and institutions. [...] hostile change agents are most likely to choose the state-based path, working against, rather than through, existing legal fora. (Pollack, 2023, p.41).

Other observers have considered Trump to be a hostile change agent. Although Trump is indeed a threat to International Law, Pollack argues that he should not be overstated — something he sees Harold Koh do in his book *The Trump Administration and International Law*<sup>23</sup> (2018).

Trump continued with business as usual with respect to many international legal agreements, and his treaty withdrawals generally observed the letter of the law. Nevertheless, the combination of his tactics and the breadth of his assaults suggest that Trump can be considered a hostile change agent who sought to escape from, weaken, or destroy the core agreements and institutions of the international legal order across multiple issue-areas (Pollack, 2023, p.41).

The author cites the sanctions on the International Criminal Court (ICC), going beyond than the non-participation in the ICC from predecessors, and the withdrew from the Paris climate-change agreement, from the World Health Organization (WTO) during the COVID-19 pandemic, from the North American Free Trade Agreement (NAFTA), from the Trans-Pacific Partnership (TPP), from the Intermediate-Range Nuclear Forces (INF) treaty, the attack on NATO and violation of WTO law.

<sup>23</sup>A book that further develops the points made in his lecture (Koh, 2017) used in this dissertation.

With regard to the use of force, Trump authorized military actions that pushed the boundaries of international law, including cruise missile attacks against Syria and the assassination of Iranian General Qasem Soleimani, yet the administration offered only vague and belated justifications for these acts. Many of these actions appear to have been taken with domestic political considerations in mind, reflecting the populist ideal-type, although some, particularly in the security sphere, can be interpreted as realist. Regardless of their motivation, this incomplete list of Trump's policies reveals a fundamental assault on international treaties and institutions, which the US sought not only to escape through withdrawal, but to undermine or destroy through systematic non-compliance, rhetorical attacks, and other extra-legal measures. (Pollack, 2023, pp.42-43).

Another worry of Pollack is to determine whether Trump's actions left a legacy or not. The dominant view of most IR and legal scholars is that "international institutions enjoy substantial robustness, thanks to their functional utility, domestic internalization, and the defensive mobilization of domestic and transnational civil society." (Pollack, 2023, p.45). This means that while acknowledging Trump's attacks, they believe that his assaults would be reversed by his successor. However, "this expectation raises a second question: whether the attacks of a hostile change agent might not only succeed, but also become change-resistant and path-dependent after that agent has passed from the scene" (Pollack, 2023, p.45).

There are domestic and international consequences.

Domestically, withdrawal from or non-compliance with an international legal agreement may generate societal adaptations 'from below' and engage change-resistant constitutional constraints 'from above', both of which make a return to the status quo ante costly. From below, hostile acts like non-compliance or withdrawal may mobilize 'non-compliance constituencies' who benefit from violating or escaping international agreements, and lobby to maintain the new status quo. From above, meanwhile, a hostile agent's actions may become institutionally 'locked-in', with high institutional barriers to returning to the status quo ante. Take, for example, a hostile agent's withdrawal from an international treaty. In the US, treaty withdrawal can be undertaken by the unilateral action of the president but overturned only through the re-ratification of the

agreement by Congressional ratification, an extraordinarily high hurdle (Pollack, 2023, p.47).

Internationally, noncompliance, withdrawal, delegitimation and paralysis by hostile change agents can undermine the credibility of said agent's state or undermine the cooperative equilibrium in a broader way of an international institution or agreement. Using the U.S. as an example, it can be seen as no longer being trustworthy, since its willingness to honor commitments is damaged, leading to the other parts also being less willing to honor their own commitment. Not only is the credibility of one state reduced, but it generates a 'compliance pessimism' that puts the normative order as a place that 'cheating' is normal. It needs to be considered, of course, the position the United States has in comparison to other countries to afford such actions towards IL, and the consequences it would indeed suffer. But with the crisis of the LIO and hegemony, and the 'threats' of other countries into changing the order (Heine, 2023; Buzan; Cox, 2022), their actions can lead to consequences that in a 'normal' situation wouldn't.

Pollack then analyzes how Joe Biden, Trump's successor, dealt with changes the past administration has made. He argues that Biden's administration "constrained by substantial domestic and international costs of change, moved slowly, if at all, to reverse Trump's policies" and that "Trump has indeed left a legacy of continued US exceptionalism, non-compliance, and undermining of international trade law." (Pollack, 2023, p.51). A particular example Pollack gives is the TPP.

Trump's frequent denunciations of the TPP, however, had increased the unpopularity of the treaty, making it difficult for Republicans to defy the leader of their own party to ratify a revived TPP. Perhaps reflecting these considerations, Biden announced in Spring 2020 that he would 'not enter into any new trade agreements until we have invested in Americans and equipped them to succeed in the global economy' (Pollack, 2023, p.55).

This resonates with Heine's (2023) argument that after Trump's, foreign policy and maintenance of the order are no longer priorities for the United States. A turn into the domestic realm has happened, with politicians being not only more worried with electoral support, as Heine says, but also, the survival of the U.S. as exceptional. A worry with the domestic environment. This will be further discussed now.

#### 4.4

##### **Intermestic: exceptionalism fortified**

The previous chapter discussed John Ruggie's (1992) argument that the international system was multilateral because the United States was the hegemon. It was also discussed how the country sometimes weakened multilateralism, choosing to act in different ways. Murphy (2004), Ignatieff (2005), and Bradford and Posner (2011), gave diverse reasons for such behavior. It was related to problems with the order the U.S. has created, or it is a matter of incompatibility between the international legal system and the domestic realm, such as 'giving up' some sovereignty. However, the multilateral agenda the U.S. sought did not aim at creating formal international organizations with independent powers.

The American postwar multilateralist agenda consisted above all of a desire to restructure the international order along broadly multilateral lines, at the global level, and within Western Europe and across the North Atlantic. [...] Secondly, the United States occasioned the creation of several major multilateral regimes, as in the fields of money and trade, and also helped establish numerous formal international organizations to provide technically competent or politically convenient services in support of those objectives. To be sure, the United States hardly acted against its self-interests. But the fact that U.S. behavior was consistent with its interests does not explain the behavior. Nor was multilateralism what some would call "a consumption good" for the United States, an end in itself. So how do we explain U. S. actions? (Ruggie, 1992, p.590).

Ruggie is under no assumption that multilateralism was a choice made out of goodness from the United States. But the reason is yet unclear. For the author, hegemony has particularities due to their domestic environments, therefore, the durability of multilateral arrangements is a function of domestic environments.

It seems clear that across a broad array of social and economic sectors, the United States after World War II sought to project the experience of the New Deal regulatory state into the international arena. According to Anne-Marie Burley, this endeavor entailed two distinct dimensions. The first was a belief that the long-term maintenance and success of domestic reform programs required a compatible international order. The second was a commitment at the

international level to institutional means which had already been tried domestically and which grew out of the legal and administrative revolution that accompanied the New Deal. The combination of the two translated into an active U. S. effort to institutionalize a multilateral international economic and social order. In the security realm, a count of the domestic political noses led President Roosevelt to believe that isolationist tendencies could not be neutralized by having the United States form bilateral alliances with or against the very European states that kept dragging it into war — which is how the isolationists viewed the world. Accordingly, the notion was foremost in Roosevelt's mind that only by "binding" the United States to a more permanent multilateral institutional framework, which promised to transform traditional international politics, could a relapse into isolationism be avoided. By 1947, the Truman administration discovered anticommunist rhetoric to be a useful tool toward that same end (Ruggie, 1992, pp.592-593).

In this account, the United States pushed forward a multilateral system for two main reasons. First, to maintain domestic success, the international realm should also be compatible. Second, in order to achieve this, a multilateral system of spreading values and policies that were successful in the United States was the best approach.

More than a decade later after publishing his seminal work on multilateralism, Ruggie (2005) discussed similar topics, but taking American exceptionalism in consideration. The author sees the U.S. as the main, although not solo, country responsible for the system of global governance after World War II. President Franklin Roosevelt had to overcome the isolationist legacy of the 1930s and to ensure that the U.S. would stay engaged for the achievement and maintenance of a stable international order.

So Roosevelt framed his plans for winning the peace in a broader vision that tapped into America's sense of self as a nation: the promise of an international order based on rules and institutions promoting human betterment through free trade and American-led collective security, human rights and decolonization, as well as active international involvement by the private and voluntary sectors. For Roosevelt's successors, countering the Soviet threat reinforced the mission and in many respects made it easier to achieve. This first form of American exceptionalism — pursuing an international order that resonated with values the American people saw as

their own — became the basis for a global transformational agenda whose effects are unfolding still. Yet from the outset the United States also sought to insulate itself from the domestic blowback of certain of these developments. This, too, has been justified on the grounds of American exceptionalism: a perceived need to safeguard the special features and protections of the U.S. Constitution from external interference. And it also taps into a core element of American identity: ours is a civic nationalism, defined by the institutions and practices that bind us, not by blood and soil, and none is more foundational than the Constitution itself. While the executive branch traditionally drove the international transformational agenda, the “exemptionalist” resistance has been anchored in Congress. It has been most pronounced and consequential in the area of human rights and related social issues, where it has typically been framed in terms of protecting states’ rights against federal treaty-based incursions (Ruggie, 2005, p.304-305).

Different presidents tried to minimize during the Cold War the ‘international embarrassment’ of the exemptionalist impulse, especially in relation to civil rights.

Starting in the 1990s, however, the escalating wave of globalization and the international “soft law” it has generated, coupled with the end of the external disciplining effects imposed by the Cold War, have produced a broader and more unrestrained exemptionalist opposition to global governance. [...] But what may be the politically most significant shift, the Bush administration has been far more hospitable to the exemptionalist agenda than any of its predecessors. Indeed, in its vigorous opposition to the ICC it may end up sabotaging what most American allies consider the crowning achievement of the postwar move toward global governance (Ruggie, 2005, p.306).

Ruggie states that the exemptionalist posture has become harder to sustain. It was constricted by other channels and platforms for transnational action that proliferated out of direct American control, and also entwined with American society. He argues that although the U.S. resistance to global governance is said to be involved in deep technical questions with its constitution, “the exemptionalist position also reflects a distinctive set of doctrinal preferences and feeds into a specific ideological agenda.” (Ruggie, 2005, p.307).

Ruggie sees the commitment to new agendas in the multilateral system increasing in scope since the 1970's not only having a more diversity of issues, but the shift in locus of these issues along a set of axes, 'external', 'internal', and 'universal' dimensions of policy space.

A good example of this process was the 'Bricker amendment', the name for collective amendments that never passed created by conservatives in the American Senate. They were exemptionalist in character, and aimed at stopping or at least changing what the U.S. would agree to in the international legal system. The arguments were framed in constitutional terms, "that the UN human rights conventions then being negotiated would violate states' rights, undermine the separation of powers, and diminish the basic rights of Americans by lowering them to international standards", and also "infringe on domestic jurisdiction, subject U.S. citizens to trials abroad, and promote world government." (Ruggie, 2005, p.323).

President Eisenhower just barely defeated the Bricker amendment. But in return, his administration was obliged to withdraw from further negotiations on the Genocide Convention and the UN covenants, and subsequent administrations have had to agree to an ever-escalating series of reservations and non-self-executing declarations limiting such treaties' domestic legal effects. Even so, the United States ratified the Genocide Convention only in 1988, the International Covenant on Civil and Political Rights in 1992, and the Convention Against Torture as well as the Convention on the Elimination of All Forms of Racial Discrimination in 1994. Similarly, it took the Senate thirty-four years to adopt a 1957 ILO convention banning forced labor, codifying an issue that one would have thought had been settled by the Civil War. Needless to say, non- or late ratification did not equate with noncompliance. U.S. authorities did not commit genocide or torture in the interval, and the Supreme Court declared Jim Crow laws unconstitutional while related political practices were redressed by the civil rights legislation of the 1960s (Ruggie, 2005, pp.323-324).

At first, the cause for these oppositions was race. Crimes committed against non-whites could become actual crimes and the division of race could become illegal. But what drives the exemptionalist quest in modern days is a "more diffuse set of social issues including capital punishment, abortion, gun control, unfettered property rights, and the role of religion in politics and policy." (Ruggie, 2005, p.324), alongside distrust of government and an even

bigger distrust of international entities. Ruggie sees as a main source for the resurgence of exemptionalism the growing influence of neoconservatives in the policy arena, citing think tanks from the 1980s on, such as American Enterprise Institute and Heritage Foundation. “Put simply, the new sovereigntists propose to defend America against the world of global governance that the United States itself helped to create.” (Ruggie, 2005, p.325).

However, other sources exist, such as the ‘nationalist’ school in legal scholarship about the role of International Law in domestic courts. Many concerns are raised, mainly about the adverse consequences for the U.S. constitution if rules and norms of customary IL are incorporated in the domestic sphere. Also, International Law lacks legitimacy in subjects like human rights, since they are rights of domestic domain, but also “they are not ‘customary’ because in many instances they fail to reflect actual state practice but are the products of various forms of international agreements.” (Ruggie, 2005, p.325).

Returning to a point made by Ruggie: since the 1970’s, besides a variety of issues being included in the multilateral agenda, a more significant change happened.

[A] shift in the locus of some of these issues along a set of axes depicting the “external,” “internal,” and “universal” dimensions of policy space. Providing collective assistance to a state that has fallen victim to military aggression deals with matters that are “external” to the states involved: reconfiguring the military balance of power or imposing other sanctions on the offending party. Human rights provisions, in contrast, concern the most intimate of “internal” political relations: that between a state and its citizens. And the ICC may prosecute individuals, if their own state fails to act despite good cause, who are accused of genocide, crimes against humanity, and war crimes — not only individuals who are nationals of signatory states, but also those of nonsignatory states if the alleged crime is committed in the territory of a state that has ratified the ICC statute. Thus it represents a step toward universal jurisdiction (Ruggie, 2005, p.309).

This shift in the locus was not only restricted to human rights, but also happened in the global trade regime, in the area of international peace and security, and environmental issues.

Ruggie is looking into the ways in which International Law became more part of the domestic realm, with problems once thought to be domestic

and individual, becoming of communal worry and responsibility. As shown with Murphy (2004) arguments, the U.S. has a not so linear relationship with International Law domestically. And this can be partially explained not in terms of existing two entirely separate realms — the domestic and the international —, but as if some policies are rather intermestic matters. Matching the change of locus in the 1970s Ruggie mentioned.

‘Intermestic’ was a term created by Bayless Manning, who argued “that some foreign policies have such a significant direct effect on the domestic sphere, that the deliberations behind them are rooted in both international and domestic considerations.” (Meinderts, 2020, p.2). Manning’s original definition mainly considered politics that directly affected the domestic economy, but the scope of intermestic affairs have been broadened “to include the effect that foreign policy has on domestic public opinion and the effect of public opinion on foreign policy” (Meinderts, 2020, p.2). But referencing historian Frederik Logevall, Tom Meinderts suggests intermestic policy “to mean an international policy that affects or has implications on the domestic discourse.” (Meinderts, 2020, p.2), expanding its meaning even more.

The two-level games approach by Robert Putnam<sup>24</sup> is one of the most common theoretical attempts to connect the international and the domestic (Langhelle, 2013; Meinderts, 2020). However, Nitsan Chorev<sup>25</sup> argues that it is more useful to understand these two levels as not distinct, but to incorporate them into one field of action. Chorev calls this perspective ‘integrative approach’, that demonstrates how “‘factors from both levels shape a particular outcome’ and how the interplay between these factors occurs within a ‘unified field of political action’ in which the boundary between domestic and international considerations is best represented as a ‘fluid divide’ (Chorev, 2007, pp.653, 655, 657 apud Langhelle, 2013, p.2). Considering how much ‘Americanness’ is ingrained in the international order, it is easy to see how these two realms are connected to the United States.

Meinderts believes that a realist framework is useful to examine intermestic affairs by considering such affairs as “a power struggle that plays out simultaneously on a domestic and international level.” (Meinderts, 2020, p.2). This means that “intermestic realism examines the power struggle that originates from a particular action both internationally and domestically.” (Meinderts, 2020, p.3). Following the realist tradition, in order to choose to carry on or to refrain from an action, the power gained both domestically and internationally

<sup>24</sup>Putnam, Robert D. *Diplomacy and Domestic Politics: The Logic of Two-Level Games*. International Organization, Vol. 42, No.3, 1988, pp.427-460.

<sup>25</sup>Chorev, Nitsan. *A fluid divide: Domestic and international factors in US trade policy formation*. Review of International Political Economy, Vol.1, Iss.4, 2007, pp.653-689.

needs to be taken into account.

Domestic power can be gained if this intermestic policy increases one's domestic political standing, and international power can be lost if this policy adversely affects the relations with the target country. Therefore, from a perspective of intermestic realism, a government will choose to pursue a policy if the domestic power gained is greater than the international power lost and vice-versa (Meinderts, 2020, p.3).

Closely related to this dissertation, Meinderts uses Donald Trump's discourse of unfair U.S.-China trade relations as an example. The focus on this point

served two purposes: (1) it fed into the populist-nationalist sentiment that the economic hardships of the working and middle class were due to international trade and immigration; (2) the threats made toward China during his campaign had a "unifying principle," uniting people against a "rigged" international system (Meinderts, 2020, p.4).

The 'America First' rhetoric was filled with adverse attitudes towards China, being a major point in Trump's campaign discourse, that at least partially exemplifies how trade war is an intermestic matter.

The adverse effects of the trade war on international economic outcomes, geopolitical standing, and US-China relations, are international considerations for not engaging in the trade war. However, the domestic benefits gained through the America First rhetoric make up for the adverse international effect by increasing the domestic power of the Trump campaign. As such, the perceived domestic power gained by engaging in the trade war outweighs the perceived international power lost (Meinderts, 2020, p.4).

This example shows the implications of domestic consideration to international action. Even though when considering the international, the trade war between U.S. and China has negative consequences for both, "engaging in this trade war has clear domestic benefits. As such, while these countries do not gain international power from their international relations, the domestic power gained by their actors offset these adverse effects." (Meinderts, 2020, p.5).

The ‘turn’ on foreign policy to economic matters, focusing on the domestic realm improvement in the area, presented in the previous section, can be understood as an action that gains more domestic power than international. In the following section Trump’s relationship with exceptionalism will be discussed, but it needs to be said that the focus on economic matters and ‘material’ gains is not a coincidence in the former president’s politics. His strategy heavily matches the intermestic theory, and the realist framework presented by Meinderts. To opt for domestic gain over international can also be seen as a way of strengthening American exceptionalism, not only in Trump’s administration, but something done by previous presidents.

Intermestic is a useful category to understand how societies with their domestic environments interact with the international realm regarding norms — both international and national ones. An interaction that counts not only with the executive power, but also the Congress, that is the legislative power made of the Senate and the House of Representatives in the United States. Even political branches that are supposedly focused on the international environment can interfere in IL. This work, as repeatedly said, does not focus on American foreign policy, but how the U.S. related to IL. The activities of the American Congress at the domestic level are deeply connected to the politics of the international legal system. The U.S has the two realms entwined, specially because of its position as the hegemon, its role in the creation of the order, and exceptionalism as a boost for the maintenance of two relationships: United States and International Law, and the American domestic realm with the international system.

In this section and the prior, 4.3, the aim was to provide enough accounts to answer whether Trump signified a rupture for the traditional relationship between the United States and International Law. It seems that it did not. It is undeniable that Trump pushed forward heavily conservative policies, targeting immigration for example. However, in policy matters, he did not stray that far from other conservative administrations. His speeches caused more worry than previous presidents did, probably because of his ties with the Far-Right. He had more ‘radical’ ideas and did not follow much protocol. Still, when it comes to actual changes, much has remained the same. The tradition of exceptionalism affecting the U.S. and IL relationship was kept, but the tradition of using exceptionalism remains to be analyzed.

## 4.5

### Use of Exceptionalism

As discussed in the second chapter, exceptionalism became a concept of political discourse, and particularly presidential discourse. It started with Barack Obama being accused of not believing in American exceptionalism, and soon became a discourse for the Republican party — exceptionalism got weaponized (Gilmore; Rowling, 2021). Republicans often portray Democrats as nonbelievers or apologists for what the concept entails. It comes as no surprise then that Donald Trump also has a relationship with the concept, being a former Republican president. However, Trump had a distinct behavior towards exceptionalism, and scholars differ from what it meant. Jason Gilmore and Charles Rowling (2021) argue that Trump exploited exceptionalism's discourse, portraying him and his government as exceptional or the way for exceptionality. Ian Tyrrell (2022), in contrast, argues that Trump did not use the concept at all and he did something else entirely. Jason Edwards (2018) believes that Trump has redefined exceptionalism in presidential policy. Finally, Hilde Restad (2019) view is that Trump borrowed old conservative discourses and modernized them against the liberal ideals. The arguments advanced by these authors are discussed next.

Gilmore and Rowling recounts that Trump was asked about American exceptionalism at a Texas Patriots Political Action Committee's event, in April 2015. He answered that he did not like the term, and that the U.S. was losing its global power. In Trump's view, the U.S. was only exceptional when it was winning — and it wasn't. The U.S. has for too long “sacrificed its interests and well-being for the benefit of others, allowing other nations to take advantage of the United States and weaken it in the process. Within this context, Trump then quickly pivoted, stating: ‘I'd like to make us exceptional.’” (Gilmore; Rowling, 2021, p.2).

Trump did not mention American exceptionalism in another public speech in June at the Trump Tower, in which he announced his candidacy. But he maintained the doom discourse of the U.S. being in ruins, being taken advantage of, and no longer being the ‘Number 1’ in anything. “The country, according to Trump, was no longer the beacon of hope so many had talked about. It was not an example for the world to emulate. And it was not leading the world in any respect. “ (Gilmore; Rowling, 2021, p.2). The Democrats were not the only ones to blame for this problem. Republicans were also guilty, such as the Bush administration. The problem was not one party, but the ‘Washington establishment’.

If politicians were the problem, then it was incumbent upon the

American people to elect someone who wasn't a politician. They needed to elect someone different. And Trump was different. [...] According to the newly announced candidate, he was unique because he was not a politician. And even though the country was no longer exceptional, Trump painted a grand picture of himself as being exceptional, which was why he argued that he alone could solve the problems of Washington and make the country "great again." Everything Trump touched, according to him, was exceptional. He talked about his golf courses as being "the best courses in the world." Again, on the crowd gathered at the event, he offered: "There's been no crowd like this." On the wall he proposed to construct on the US-Mexico border: "nobody builds walls better than me, believe me." On ISIS: "Nobody would be tougher on ISIS than Donald Trump." On rebuilding the country's infrastructure: "Nobody can do that like me. Believe me." In fact, if it had anything to do with Trump, it was exceptional: "I know the smartest negotiators in the world." To drive it all home, Trump stated: "I will be the greatest jobs president God ever created. I tell you that." The picture was clear. The United States of America was no longer exceptional. In fact, it was in ruins and no longer Number 1 in any sense. But there was one person, and one person alone, who could restore American exceptionalism (Gilmore; Rowling, 2021, p.3).

The strategy Trump used is called by the authors as 'exceptional me', "loosely based in the language of the historic concept of American exceptionalism but spruced up with Trump's signature self-focused branding and promotion techniques." (Gilmore; Rowling, 2021, pp.3-4). This strategy had two stages: the first one was his 2016 presidential campaign, and the second his presidency. The 1.0 strategy, the presidential campaign, had four parts. First, he downplayed or avoided the topic of America being exceptional. "His strategy was to promise an American exceptionalism in the future, one that he would bring to fruition once he was in office. It would defeat his purpose, therefore, to make the case for an America that was already exceptional." (Gilmore; Rowling, 2021, p.4). This was a blatant difference from how presidential candidates traditionally formulated their campaign communication. Second, he actively portrayed the U.S. as being unexceptional, losing its ground. The third was to put the blame on all politicians for America's decline, creating an idea that the solution was to be found in someone unique and exceptional. The final part was to put him as the solution.

This was embedded in his “Make America Great Again” slogan, which many read to mean “Make America Exceptional Again.” Instead of relying on his party’s platform, however, to make the case for how the country could restore American exceptionalism, Trump offered himself as the one, uniquely qualified person in all of politics to bring America back, again contrasting himself to a field of not only Democratic presidents but Republican ones as well. This was perhaps best illustrated in his acceptance speech at the 2016 Republican National Convention when he said: “Nobody knows the system like me, which is why I alone can fix it.” Throughout the 2016 Make America Great Again campaign, Trump made one thing perfectly clear: if anything was exceptional, it was Trump (Gilmore; Rowling, 2021, pp.4-5).

The 2.0 version counted with five parts, and it was a strategy targeting reelection. The first was to gradually portray the U.S. as becoming exceptional again. A rebuilding of exceptionalism during his mandate. The second, then, was to credit himself and his government for the re-emergence of exceptionalism.

In this way, Trump defined American exceptionalism not as something inherent in the nation itself but as something that can be gained or lost, something that Trump alone was able to restore. In other words, unlike other presidents who understood American exceptionalism to be something outside of themselves, something embedded in the character of the nation and its people, Trump saw it as being directly tied to his unique abilities and accomplishments while in office. He needed to make sure the American public knew who to thank for making America exceptional again (Gilmore; Rowling, 2021, p.7).

The third was to prove why he as a president and his presidency were exceptional. The fourth was to correlate that the U.S. was exceptional only because it had Trump as the president, and he needed to be reelected in order to keep America great. In this, the idea of exceptionalism hanging by a thread was present. The final part was to equate Trump and his political base as the true representatives of America, and his supporters as the real patriots and the true Americans. “As Trump saw it, anyone who dared criticize him was, in fact, criticizing the country itself, as well as the American people. For Trump, he and the nation were one and the same.” (Gilmore; Rowling, 2021, p.8).

The authors explained why the concept of exceptionalism and its use is something to be noted.

In modern American politics, there are few concepts more stirring and so capable of inspiring large swaths of the American people as the idea of American exceptionalism. This notion that the United States of America is an exceptional nation, one that was placed on earth to guide the world out of darkness and one that is so distinct from any other country in human history that it should stand as the gold standard for the rest of the world to emulate, is an idea that predates the birth of the United States as a nation. From the beginning, this idea served to build national cohesion and social order among Americans, and, for many around the world, it meant that the United States was a beacon of hope and a nation that all others should aspire to be like (Gilmore; Rowling, 2021, p.11).

Gilmore and Rowling (2021) reference several authors used in the second chapter, i.e. Deborah Madsen, Hilde Restad, Seymour Lipset, Natsu Saito, Godfrey Hodgson, and how different accounts and positions of the concept exist.

The true power of American exceptionalism, however, is found outside of these debates. What these arguments do not fully account for is that it matters little whether the facts empirically prove the United States to be exceptional or not— the idea of American exceptionalism resonates among the American public nonetheless. To them, the United States is exceptional not because it can be proven by some test or systematic comparison but because large swaths of the American people believe it to be true. This makes American exceptionalism a particularly potent rhetorical tool for politicians when speaking to the American people. Politicians ignore this reality at their own peril. The power and importance of this idea among Americans run deep and transcend ideological perspectives (Gilmore; Rowling, 2021, pp.12-13).

As said before, presidents of the U.S. have historically used American exceptionalism in their discourse — for campaign or political justification, for example. This is why the public sees them as the greatest defenders of American exceptionalism, on behalf of the American people.

This idea — that the United States is a singular, superior, or even God-favored nation — is one that U.S. presidents have long depended on to garner national support for policies, to unify the nation, and to forge its dominant path in global affairs. Scholars suggest that U.S. presidents are highly strategic when and how they communicate powerful ideas like American exceptionalism. For instance, presidents tend to invoke this idea in major addresses to the nation when they are attempting to rally the American people around a specific cause or issue. Furthermore, research has shown that presidents tend to invoke American exceptionalism more frequently and prominently in times of national uncertainty—war and economic recession. This occurs as presidents seek to reassure the American public and instill confidence that the nation will overcome its hardship. Presidents, therefore, tend to be quite creative when they speak of American exceptionalism, celebrating everything from its unique institutions and “hardest working” people, to its symbolic status as global leader and a beacon of hope for the rest of the world. As a result, many Americans have come to expect — even demand — that presidents not only invoke this idea but fully embrace and celebrate it in their public communications. Indeed, it is often seen as a measure of their patriotism. The story of American exceptionalism in modern presidential politics, however, is one that has evolved over time and in relation to the changing world order. While all U.S. presidents have put forth their own vision of American exceptionalism, their purposes and reasons have changed (Gilmore; Rowling, 2021, pp.13-14).

Exceptionalism then, as a presidential discourse strategy, is more common in times of trouble, whatever the crisis might be. And although used by all American presidents (even including Trump, it seems), they had their own vision of what exceptionalism meant, and their own purposes and reasons to do so. It can be understood that the authors see exceptionalism as a tradition, but a stable one.

Ian Tyrrell (2022), who had his interpretation of exceptionalism presented in chapter two, points out that after Trump was elected, the concept of American exceptionalism had a strange turn. It became a popular subject, with scholars declaring its end or decline. In agreement with Gilmore and Rowling (2021), Tyrrell mentions that Trump disavowed exceptionalism. But in opposition to their main idea, the author argues that the ‘America First’ discourse is not the same as exceptionalism. “Rather, Trump exuded ethnonational sen-

timent and stentorian patriotism, and he shared this disposition with more overtly authoritarian leaders in Europe, Asia, and Latin America.” (Tyrrell, 2022, p.2). The ‘Make America Great Again’ was a borrowed slogan from Ronald Reagan presidential campaign in 1980, but ‘great again’ meant something else for Trump other than a status in the world.

“Great” did not mean exceptional; it had connotations of scale — great, greater, greatest — or of a numerical grid, whether measured by the size of navies, armaments, gross domestic product, or any other aspect of quantitative national attainment. It did not mean a nation set in a separate category, with unique moral and political ideals. Trump never favored the “city upon a hill” concept of the United States as a model for the world, as Ronald Reagan did and as Barack Obama concurred. Instead, Trump proclaimed “America First,” a slogan with an etymological pedigree dating from 1930s fascist sympathizers. “America First” means treating the relations between nations as a zero-sum, geopolitical struggle, without reference to international norms or ideals. It is a program for retrieved national greatness, not exceptionalism. If greatness were to be meaningful as exceptionalism, it must be as a “true” greatness distinguished by its values from mere quantitative superiority (Tyrrell, 2022, pp.2-3).

‘Great’ and ‘exceptional’ mean different things.

The United States is undoubtedly a great power, possibly the greatest yet in world history. But with China challenging American economic hegemony, and many conventional standards of exceptionalism in material life eroded — in educational achievement, equality of opportunity, economic growth, and governmental conduct — something other than greatness would be needed to back the exceptionality of the United States. More important, the idea of American exceptionalism posits the United States as exceptional from the start, at a time and in an imperial world when it clearly was not great as a military or economic power (Tyrrell, 2022, pp.2-3).

Although Trump was not fond of exceptionalism, the idea was central to the developing critique of his presidency performance, but also to some of his supporters. The end of the Cold War allowed the concept of exceptionalism, endowed by history itself, to prosper with no barriers. However, its meaning was

not consolidated. Seymour Lipset is a key reference of the term in literature, but it was 9/11 that allowed his notion of exceptionalism to be synthesized and expressed the concept that manifested U.S. history. The explicit use of American Exceptionalism as a state ideology starts in the context of the War on Terror.

We can only speculate what Seymour Martin Lipset might have made of such rhetoric. In 2001, he suffered a severe stroke. As a result of this considerable incapacity, he was unable to write in the wake of the 9/11 Al-Qaeda attacks, and collaborators completed his final publications. He died December 31, 2006. Likely his response would have conformed to his own version of exceptionalism based on an interest in empirical facts of American difference from other countries, not the rhetoric of chosenness. What he would have thought of President Donald Trump is also a matter for speculation, though he might well have slotted the businessman-showman-president into the cases he and Earl Raab had analyzed on right-wing and populist movements as a “strain” on the social system — yet an irritation incapable of overturning the key values of the American (liberal and democratic) Creed. That stated, since 2006 the history of American exceptionalism has become quite perverse in ways that Lipset would have struggled to comprehend (Tyrrell, 2022, p.194).

The author argues that a ‘hyper speculation’ about the end of exceptionalism evolved with Trump’s rise to power. Different from the previous authors in this section, Tyrrell sees exceptionalism as being brought back into discussion due its possible end, and not for its use by Trump. Trump did not have a discourse about exceptionalism; he was perceived as a threat to it by some, and an aid by others. If the U.S. were to decline, it would take a considerable amount of time for it to be complete, and it would reflect as the U.S. becoming a less self-contained nation, in a globalized world. Trump can be seen as a sideshow or an omen.

If the Trump presidency signifies anything for the future, it shows how difficult it has been to implement his agenda of “America First” as a way to greatness because the transnational connections between the United States and “the world” are so deep and wide — this, thanks in no small part to the role of the United States as the chief agent of globalization since 1945. That legacy, in immigration

policy, trade, and security, proved harder to unwind than Trump anticipated (Tyrrell, 2022, p.196).

Even though Lipset is a reference for those who stand by the idea of U.S. exceptionalism, the conservative Republican program that sees the U.S. as exceptional, and that Trump's administration followed, misses an important part of Lipset's argument: the assessment of exceptionalism as having positive but also negative aspects and consequences. "Superiority is taken for granted, and the narrative of the egalitarian American Creed is muted in favor of patriotic rhetoric about the nation's 'special role in the world and in human history'" (Tyrrell, 2022, p.197). As previously said, Tyrrell also sees opponents' reaction to the Trump presidency informed by exceptionalism.

Trump's conduct as both an individual and a representative of the nation has offended the idea of an American global leadership based on trust and rules rather than purely transactional politics, and it has played havoc with the nation's conception of itself as a positive example to humanity. Trump's immigration policies, in particular, transgressed the Nation of Immigrants idea that has informed modern liberal exceptionalism, especially since the 1940s (Tyrrell, 2021, p.197).

Jason Edwards (2018) shares similar ideas with Gilmore and Rowling (2021), with them having written a paper together that preceded the book previously mentioned, 'Exceptional Me'. But looking at exceptionalism, Edwards claimed that Trump's rhetoric of 'America First' implied that American foreign policy was in a state of chaos, and his foreign policy would fix this, by rejecting postwar consensus and the globalist ideology. The author argues that "[t]he rhetorical precepts and narratives of American exceptionalism are the primary sources of invention that politicians use to make arguments concerning the U.S. role in the world." (Edwards, 2018, p.177). There are three related ideas that compose the belief of the U.S. as a chosen nation. The first principle is to see the United States as a nation with a special destiny, that others will look at as a model and will try to copy. "In foreign policy, this precept grounds the argument that the U.S. role in the world is always performed with good intentions." (Edwards, 2018, p.177). The second precept is that the U.S. is qualitatively different from the Old World and Europe. "Settlers of the New World escaped a corrupt political environment and replaced it with the greatest republican society in the world, where the Constitution holds ideas, values, and principles never tried before in the world." (Edwards, 2018, p.177), which justifies the idea of the U.S. as being distinct.

The last principle is that the U.S. is not bound to fall, and can escape this destiny unlike all others great states in history. Because what makes the U.S. exceptional is not what it is, but what it could be. “While a perfect union is never possible within the United States, because it is always attempting to form a ‘more perfect union’, its exceptional quality is never fully complete and devolution of its power will not occur.” (Edwards, 2018, pp.177-178). Combined, political leaders utilize these precepts of exceptionalism to declare how the U.S. is an extraordinary nation, with a special role to play. This functions in foreign policy as the logic that informs its vision of the world and that defines its place.

In essence, American exceptionalism defines how the United States sees itself in the international order, and its presidential candidates and presidents largely adhere to these basic premises. That said, there have been significant differences among political figures as to how the United States should enact these exceptional qualities. These differences have led to the creation of two distinct narratives of what the U.S. global position should be: the mission of exemplar and the mission of intervention (Edwards, 2018, p.178).

The ‘exemplarist<sup>26</sup> worldview’ sees the U.S. as having an observant role, of not getting involved, but only serving as a social and political model. “Activities such as perfecting U.S. institutions, increasing material prosperity, integrating diverse populations into one country, and continuing to strive for more civil rights demonstrate why others should emulate the United States.” (Edwards, 2018, p.178). The ‘interventionists worldview’ believes that the U.S. should live up “to its exceptional credo by active engagement with the world in all spheres of political, social, economic, and cultural life. The growth of U.S. power and the increasing interconnectedness of the world compel the United States to engage and lead humanity.” (Edwards, 2018, p.178). The special role of the U.S. is to be a glover leader, assuring that the world will have greater democracy, freedom, human rights, and free markets.

Edwards discusses how different administrations have leaned towards one worldview than the other, but that overall, in recent history, especially with George W. Bush and Barack Obama, the narratives were fused to further expand U.S. global leadership. “For 75 years, presidents have rhetorically supported this position. By contrast, candidate Trump’s rhetoric suggested this global leadership mission was over, and his administration would redefine U.S. global engagement for the 21st century.” (Edwards, 2018, p.181).

<sup>26</sup>Being an example.

The main topics of Trump's foreign policy discourse were condemning U.S. globalism, immigration, trade and nation building. The disorder would be reverted with his presidency. By rejecting globalism, Trump promoted 'Americanism. Immigrants were portrayed as threats. Current trade policies were painted as disadvantageous to the U.S.. But most relevant here, is the discussion of nation building as subsequent from military interventions.

A consequence of Trump's rhetoric was that it undermined the U.S. primary foreign policy mission for the past 75 years: the promotion of democracy across the globe. Promoting democracy has been a principal tenet of U.S. foreign policy since the end of World War II. [...] Presidents from Harry Truman to Richard Nixon to Ronald Reagan to George W. Bush reinforced that idea by extolling democracy's virtues and advocating for the United States to be a leader in its global expansion (Edwards, 2018, p.187).

For Trump, the U.S. created vacuums for terrorists to grow and succeed. To invade and leave, such as Iraq, Libya and Syria, were evidence that democracy-promotion and nation-building were not business the U.S. should take. These actions only weakened the country.

Stopping its commitment to democracy promotion was a means to focus on a foreign policy that supported only U.S. interests and a means to engage in some nation-building domestically, which was at the core of Trump's "America First" movement. Additionally, his discourse implied that democracy promotion actually robbed the United States of its exceptional nature. To restore American exceptionalism, the United States needed a foreign policy of "America First" that got the United States "out of the nation-building business and instead focusing on creating stability in the world." For Trump, creating global stability, instead of democracy promotion, allowed the United States to put more emphasis on building up its resources at home. With a stable world, the United States would not have to worry about becoming the world's global policeman. In turn, the United States could focus on its own affairs and restore the power of its example. Then and only then could the United States reclaim its exceptional status (Edwards, 2018, p.188).

The author says that Trump's rhetoric, during his campaign and at the beginning of his administration, redefined American exceptionalism in two ways. "For 75 years, Republican and Democratic leaders have committed the

United States to being the leader of the free world. These presidents built these arguments on a fusion of America's exceptionalist worldviews." (Edwards, 2018, p.188). They saw the U.S. involvement in global affairs, its leadership, as a way to protect the power of their example. Trump, however, rejected this view, and "argued that U.S. interventionism led to an exploding trade deficit, borders unprotected, U.S. sovereignty surrendered to international institutions, and the United States' ill-advised democracy promotion to countries that did not want it or could not make it work." (Edwards, 2018, p.189). As said, the U.S. globalism left a vacuum for terrorists to flourish, but also created instability in the Middle East and had to see Russia and China becoming more powerful due to its mistakes. "To make the United States great again, it needed to extricate itself from its global commitments and allow the power of its example to influence the affairs of the world as it had during the 19th and early 20th century." (Edwards, 2018, p.189).

The second perspective emphasizes that the U.S. was exceptional not because of the uniqueness and superiority of its ideational principles, but rather, material ones. This traditional view was discussed in the second chapter, in which the characteristics of exceptionalism are defined as ideational in nature. For Trump, however,

U.S. economic prowess and material gains were the source of its exceptional nature. Throughout the campaign, his rhetoric focused on how reforming U.S. policy on trade, immigration, international engagement, and democracy promotion would be a means to deliver the material gains it had lost because of previous presidential administrations. [...] In other words, Trump's calculus for foreign policy success was not spreading universal ideals but the resources they would cost. [...] For Trump, to make the United States great again, it must adopt an America-first policy that reformed trade policy to lower the trade deficit; curtailed illegal immigration because immigrants lowered wages, siphoned off public resources, and were a security risk; reduced our commitments to international institutions where members did not pay their fair share and/or ruled against U.S. interests; and stopped spending trillions of dollars on nation building projects that benefitted other nations but not the United States. According to Trump, all of the extra money wasted on these "globalist" policies can now be used to reinvigorate the American economy. "Nation building" can be done at home by bringing more manufacturing to U.S. shores and a massive investment in infrastructure that would (re)build roads, bridges,

airports, schools, and hospitals. This nation building at home would restore the United States' economy as the envy of the world and be an example for others to emulate. In Trump's America, material wealth was the source of U.S. greatness (Edwards, 2018, p.189).

In analyzing Trump's agenda of 'America First', Hilde Restad (2019) argues that "Trump breaks with all modern presidents not just because he challenges the postwar 'liberal international order,' but because he rejects its underlying master narrative — American exceptionalism." (Restad, 2019, p.63). Whether it was used "to promote 'the four freedoms,' to be 'a shining city on a hill,' or to be an 'indispensable nation,' presidents of both parties have based their arguments for U.S. leadership on a belief in American exceptionalism." (Restad, 2019, p.64).

American exceptionalism is a powerful meta-narrative that has been fundamental to push forward the idea that the U.S. should have a leading role in international institutions it helped to create in the 1940s. Similar to what has been said in the second chapter, and relating the interpretations of exceptionalism with the LIO, Restad says that "since World War II, the makers of U.S. foreign policy have operated under the assumption that the world needs U.S. leadership not just because of American military might or the dollar, but because the United States is exceptional." (Restad, 2019, p.64). With the end of the Cold War, the agreement deepened between this group and through the rest of society, that interpreted the end as a reaffirmation of American exceptionalism.

Of course, in arguing that putting "America First" would make America "great again," one might think that Trump, in fact, is promoting American exceptionalism. The idea of American exceptionalism is certainly connected to "greatness." Republican voters might think Trump is embracing exceptionalism — understood as American superiority and even a sense of national mission — because the "America First" agenda is, to some degree, reminiscent of the Republican Party's foreign policy agenda (Restad, 2019, p.65).

Restad argues that the strategy used by Trump is different in kind, for its rejection of the American exceptionalist narrative, using instead a competing narrative that highlights that:

The United States is not morally or ideationally superior to other countries — it is not an "exemplar." In fact, according to Trump's

worldview, it is remarkably similar to countries that define themselves by materialist national interests and an ethnic national identity. Specifically, Trump's embrace of an "America First" foreign policy entails a rejection of the moral mission that has been central to modern U.S. foreign policy: promoting (in theory, anyway) liberal internationalism through democratization, free-market economics, and human rights. Trump's master narrative views the world somewhat similarly to realists: as a competitive, anarchic place where it is every state for itself, where alliances are temporary, and only the fittest survive. In this worldview, making America "great" means making America economically wealthy, militarily powerful, and safeguarding the white, Christian cultural heritage of the United States. In other words, Trump's America First foreign policy platform is grounded in a master narrative perhaps best thought of as what Walter Russell Mead calls "Jacksonian" nationalism (Restad, 2019, p.65).

According to Restad American exceptionalism is an ideational master narrative<sup>27</sup>, a story of a nation that is diverse in ethnicity and religion, that becomes united for the shared liberal ideas and institutions domestically and abroad. Exceptionalism is such a pervasive and strong narrative that it can be understood as another way of saying American civic nationalism, but lacking the word 'nationalism'. The opposing Trump's narrative is an ascriptive story, about the white, Christian race, that has materialist interests to pursue abroad. Trump referenced 'exceptionalism' as not being a nice term, and even though he said that he would make the U.S. exceptional if he became president, he did not use the term much. She added that "Trump has not only rejected American exceptionalism in his rhetoric — that is, when he talks about it at all — he has also rejected it in his policies." (Restad, 2019, p.77). This rejection had two fronts: first, the U.S. was not seen by him as morally superior to other countries, consequently, it did not have a mission to pursue abroad. "Trump's definition of American 'greatness' is ascriptive and material, rather than ideational and aspirational." (Restad, 2019, p.77). Trump's agenda can be understood as relying on the narrative of Jacksonian nationalism.

Trump's grounding in Jacksonian nationalism leads him to embrace parts of the traditional America First platform, which in its two previous iterations has promoted ethnic nationalism and economic

<sup>27</sup>The concept goes through changes in its interpretation even among the same author, as noted previously.

protectionism. However, Trump rejects non-interventionism, opting instead for unilateral militarism abroad. Here, Trump is more in line with original Jacksonianism than with America First (Restad, 2019, p.77).

‘America First’ is most famously associated with the organization that carried the terms as its name, founded in the 1940s to lobby against the U.S. intervening in World War II. It can be seen as supporting ideas of insularity, isolationism, unilateralism, nativism and anti-Semitism. The Jacksonian tradition was named after president Andrew Jackson, and refers to a view of populist foreign policy, created in an era of white, male mass politics, brought forth by said president. This tradition sees American exceptionalism as being rooted in the commitment of the American nation to the equality and dignity of individual American citizens, not endorsing actions of universal appeal of American ideas. The Jacksonians can be distinguished from a group of ‘believers in a multicultural U.S.’, since they would define the U.S. as a nation based on ideology, and not ethnicity. While Jacksonianism is based on community values and sense of identity deriving from British settlers and colonizers. Since Jacksonianism is not a political ideology, and different ethno-cultural groups in the U.S. are represented by these ideas, Restad says that the comparison she is making is inherently imperfect. But her point is not to say that Trump is copying Andrew Jackson, instead, that there are similarities between them.

The vision that the U.S. was responsible for leading the liberal order is shared by the Democrats and Republicans since World War II. This leadership meant that the U.S. should fully participate in the system while enforcing the rules of an open international economy. Trump, however, rejected the economic pillar of the LIO, arguing that the U.S. should have another role — one where he is not being taken advantage of. “This assumes that being the leader of the liberal international order is not currently economically beneficial to the United States, and leaves out entirely the ideational aspect.” (Restad, 2019, p.83).

Still, observes Restad, Trump believes that the U.S. is not exceptional when it’s losing money in trading competitions with other countries, like China. The only way to return to its exceptional status is to renegotiate trade deals, unfair to others but finally fair to the United States.

In other words, there is nothing about the United States that is inherently exceptional, rather, exceptionalism is a function of being the richest country in the world. [...] The absence of a values-based definition of American exceptionalism in Trump’s rhetoric is as

striking as it is unprecedented. To be clear, Trump does believe in some kind of American superiority — that is what his slogan “Make America Great Again” seems to be all about. However, he does not define greatness in terms of exceptional ideals and values, but in terms of economic wealth, military strength, and cultural identity (Restad, 2019, p.83).

Ethnic nationalism is another important component in the ‘America First’ agenda. It is also related to the America First Committee, the organization previously mentioned, and the Jacksonian tradition. This can be seen with his ‘travel ban’ politics, and the changes made in the mission statement of the United States Citizenship and Immigration Services, where no reference to immigrants could be found, including a line that said the U.S. was a ‘nation of immigrants’. And even, when Trump announced that he would seek to end the constitutional birthright citizenship. The aim was to preserve the white, Christian culture in America. The narrative of the United States Trump used was not one of a ‘nation of immigrants’, but a nation of white Christians. The inclusive narrative of a diverse nation that is united by civic ideals is rejected. What would make America then was not a political community founded in liberal ideas and ideals, but the U.S. would have an ethno-cultural origin, with North European and Protestantism customs and ancestry, with the belief in the white race superiority.

Restad focused on U.S. foreign policy, differently from this dissertation’s focus on U.S. relation to International Law, still, her analysis of Trump’s foreign policy towards interventionism is relevant.

Does Trump’s “America First” imply a resurrection of an older U.S. foreign policy tradition labeled non-interventionism, exemplarism, or even “isolationism”? Or, is he simply a more extreme version of previous Republican presidents, many of whom were strong critics of the constraints emanating from international alliances, institutions, and traditions? I argue that when it comes to military intervention abroad, Trump differs from both historic America First positions as well as Republican presidents since World War II (Restad, 2019, p.85).

Trump does not base his arguments for non-intervention on the idea that the U.S. is too special to get involved, contrasting with the ideational tradition of exemplarism. Trump is also not a more extreme version of Republicans. Reagan and Bush, for example, used exceptionalism to justify why the U.S.

should not be constrained by the rules of the LIO. In reality, “Trump’s grand strategy is a ‘contradictory combination of hawkish militarism and strategic retrenchment,’ relying on unilateralism, militarism, aggressive threats, and the strategic support from authoritarian leaders abroad.” (Restad, 2019, p.86). In fact, Trump has a record of being interventionist:

After promising to end the war in Afghanistan on the campaign trail, Trump increased the number of U.S. troops on the ground as president. President Trump dramatically increased the number of lethal drone strikes compared to the number launched during the Obama administration. He also sanctioned cruise missile strikes against targets controlled by President Bashar al-Assad in Syria in April 2017 as a response to a chemical weapons attack against the inhabitants of Idlib province earlier that month. Similarly, in April 2017, Trump declared he had ordered an aircraft carrier into the Sea of Japan to serve as a deterrent to North Korean aggression. “We’re sending an armada,” Trump told Fox News. A year later, the United States, in cooperation with Great Britain and France, again carried out strikes against Syrian government targets in response to a chemical weapons attack in Douma. Former Special Presidential Envoy for the Global Coalition to Defeat ISIS, Brett McGurk, sees Trump’s national security policy as not one of retrenchment, but rather as “revisionist and interventionist” because it seeks regime change in Syria, Iran, and Venezuela (Restad, 2019, p.86).

These examples show that Trump in any way revives isolationism, and Restad goes even further to say that America does not have a history of isolationism to revive. Although during his campaign he promised retrench, Trump has

increased troop deployments in Afghanistan, threatened war with North Korea, supported the Saudi-led war in Yemen, threatened war with Iran, and consistently promoted a military power build-up including the modernization of the U.S. nuclear arsenal and the launching of a “Space Force.” While Trump’s strategy for the use of U.S. military power is unilateral — e.g., his strike against Syria in 2017 and his general approach to North Korea and Iran — it is not isolationist nor a strategy of retrenchment. What separates Trump from those in U.S. history who are often labeled isolationists is the same thing that separates him from the foreign policy

establishment in general: his material, as opposed to ideational, definition of ‘American exceptionalism’(Restad, 2019, p.87).

Such as the concept of exceptionalism, Trump’s use of the concept of American exceptionalism has also many interpretations. It is not relevant to assess if there is a correct or better interpretation. Exceptionalism means different things for different authors, and that is why there is no consensus among them. What can be inferred is that Trump indeed did not use the ‘regular’ concept of exceptionalism, and he can either have used a modification of it or something entirely different. But he indeed represented a rupture of the usage of exceptionalism in presidential discourse.

## **4.6**

### **Summary**

This chapter analysed the crisis of the international liberal order. It was identified as part of the problem, either as a consequence or a symptom of the crisis, Donald Trump’s election to the presidency. His ties with the Far-Right explain his radical and conservative stance on different matters, and also serves as another layer of worry for his administration, and what it could do to damage the country and the order. But Trump’s actions towards IL did not make him that much different from past administrations: his ‘loudness’ was the differential. In contrast, his usage of the concept of exceptionalism was a clear rupture of presidential tradition.

## 5 Conclusions

The more general point here is that as the number of democracies in the world continues to rise, so, too, does the demand for not only internal but also external accountability of states. American neoconservatives, who are among the most vigorous advocates of democracy promotion abroad, at the same time are also utterly disdainful of international public opinion. Their position entails an unsustainable contradiction. [...] Thus America's success at promoting democracy abroad will have the effect of constraining the United States from deviating too far from the norm if it desires or needs the help of others — or of imposing significant costs on the United States if it chooses to go it alone (Ruggie, 2005, p337).

Although it does not exist materially, American exceptionalism is quite alive in American society and politics. This dissertation analyzed how and why exceptionalism affects the way the United States relates with International Law. Given the role that the U.S. had and has in the international order and international law, and the current 'crisis of the international liberal order, the relevance of this research is beyond those interested in U.S. international politics. Whether a national identity, political ideology or doctrine, exceptionalism is a concept that affects the United States. The focus of this research is not if this is good or bad, but that it happens.

The second chapter showed how exceptionalism is an integral part of American society, and a concept of social, political and academic use. The analytical lenses of Conceptual History allowed for an understanding of exceptionalism as a concept, that for this reason, remains 'undefined', in the sense that it changes over time and has no fixed meaning. American exceptionalism is a concept overly used in American politics and present in American society. Although subject to several disputes of its meaning and its value, exceptionalism still persists and informs the United States, with its different interpretations. The precise beginning of the concept does not need to be found, and probably won't with the different theories of how it came to be. What matters is that as a concept, it affects the United States in different

fields, such as International Law, and this is a consensus among all the authors used here.

Once exceptionalism was defined as a concept with different interpretations, the third chapter confirmed the main argument of this dissertation, namely, that exceptionalism has significant effects on how the United States relates with International Law. The United States laid the grounds of the liberal international order, and, although not alone, it engrained its values and interests into the order. After the Cold War, it became even more powerful and influential. Given its role of hegemon and leader of the order, the United States affects the international system even in periods of isolationism. The differentiation of two types of exceptionalism, exemptionalist and interventionist, allowed an understanding that the U.S. was an example to follow, but also the one with the capabilities to ensure its example was followed. As the hegemon, it pushed forward multilateralism internationally, but making sure it can still have a unilateral or bilateral position when desired.

The War on Terror is a good example of how far exceptionalism affects the U.S. relationship with IL. The U.S. had its moments of distancing itself from the order before the terrorist attack, but after 9/11 the relationship became more troubled. It was easier for the U.S. to justify its actions. The War on Terror became a mission targeted by heavy criticism, with the U.S. being portrayed as an imperial power, and other nations started gaining power through the multilateral system, some more than others. Although it seems that these two factors are the reasoning for a 'shift' in the relationship between the U.S. and IL, what this dissertation tried to show is that American exceptionalism affects how the U.S. deals with said relationship. Meaning that even before these factors, exceptionalism was already an existing force.

The fourth chapter showed how the election and government of Donald Trump led to numerous ruptures of different American traditions, of the political use of the concept of exceptionalism, and of the way how the U.S. relates to International Law. Americans elected a president at least with Far-Right ties, at worst Far-Right himself, that challenged the order the United States built and maintained for decades. Heine (2023) argued that there U.S. foreign policy under Trump Was not a rupture, but a shift, a change in the country's position towards multilateralism. Moreover, he, as well as Murphy (2004) and Ignatieff (2005) argued that these 'contradictory' actions were present long before Trump.

An important element to explain U.S. relations with IL is connected to the point made by Restad (2020) that changes and continuities in U.S. foreign policy depend on how change is defined, and on the narrative from which one

departs from. “If the narrative is one of liberal progress at home and promotion of a liberal international order abroad, then Trump is a change of a profound nature. If we question the narrative of liberal progress, the argument for change is less obvious.” (Restad, 2020, p.11). Trump indeed explicitly opposed the liberal international order, but he was not the first president to do it. Heine (2023) argues that he is the scapegoat to justify the U.S. abandonment of the order that they cannot control anymore.

Ikenberry and Deudney (2018) also argue that U.S. behavior under Trump have more continuities with its traditional role in the international order, as the leader of the order always had privileges, and more control than others. Trump’s particularities are more in form than substance, his ‘spectacular profile’ does not imply ruptures. However, when we look at the usage of exceptionalism, the rupture seems clear. And maybe that is why he is seen as more of a rupture to the American traditional role than what actually is. Instead of only going against the international liberal order, he went against American identity. As explored in the second chapter, exceptionalism is at the foundation of the country; a powerful concept that affects the country in different ways. Although some scholars argued that Trump modified the concept, and others that he used another strategy, they all agree that the tradition was at best paused, and at worst modified.

Trump’s promises to make the U.S. great again, pointing out all the flaws and failures, although closely related to ideas of gaining domestic power over international power, in intermestic processes, did not serve to strengthen exceptionalism — at least, not in the traditional sense. This dissertation sustains that there was a rupture in the usage of exceptionalism during Trump’s campaign and mandate. However, since exceptionalism does not have a fixed meaning, it is not possible to give a final answer to the extent to which Trump represents a rupture in its use; exceptionalism’s history is still ongoing. Certain is that the concept of exceptionalism affects how the U.S relates to International Law, the main question addressed in this dissertation.

Even in crisis, the international system remains international. As said in the introduction, a country’s position on International Law can affect the whole system. With its position, the United States has more power to affect International Law than most countries. Related to human rights, the non-ratification of the CEDAW, the UNCRC and the CRPD are seen with worry. They were not signed not because the U.S. refuses to give more rights or protection to women, children and persons with disabilities — although there were consequences (Rutkow; Lozman, 2006; Stein, 2007). Rather, because it was considered in Congress that the domestic laws were not only enough,

but better. In these cases, to formally engage with international treaties was portrayed as harmful to the rights and protection of these groups (Nauck, 1994; Mayer, 1996; Koh, 2002; Kanter, 2019).

Other examples were cited during the dissertation, such as the United States not being part of the Rome Statute that established the ICC, and the late ratification of the Genocide Convention. It does not mean that U.S. citizens were free to break international laws and the U.S. would support them, or that the U.S. engaged in genocided. It means that the U.S., although at the front of the development of the order and its pillars, i.e. International Law, has a complex relationship with it, since the domestic realm is deeply intertwined with the international one.

As pointed out, even without the presence or support of the leader in some cases, International Law did not crumble. The system the United States has led is not codependent of the country, as argued by Murphy (2004) and Koh (2017). Still, the effects of exceptionalism on the country's relationship with IL also affects the international system, with the intermestic dimension of American affairs. It raises questions of legitimacy of IL, leaving countries to wonder why they have to comply with such norms, and questions of privileges, having effects on a hegemony shift based on American absence or abstention.

## Bibliography

- [1] ANGHIE, A.. **The evolution of international law: colonial and postcolonial realities.** *Third World Quarterly*, 27(5):739–753, 2006.
- [2] BENTIVOGLIO, J.. **A história conceitual de reinhart koselleck.** *Dimensões*, (24), 2010.
- [3] BERENSKOETTER, F.. **Approaches to concept analysis.** *Millennium*, 45(2):151–173, 2017.
- [4] BRADFORD, A.; POSNER, E. A.. **Universal exceptionalism in international law.** *Harv. Int'l LJ*, 52:1, 2011.
- [5] BUZAN, B.; COX, M.. **The end of anglo-america?** In: *POWER TRANSITION IN THE ANARCHICAL SOCIETY: RISING POWERS, INSTITUTIONAL CHANGE AND THE NEW WORLD ORDER*, p. 83–102. Springer, 2022.
- [6] COOLEY, A.; NEXON, D.. **Exit from hegemony: The unraveling of the American global order.** Oxford University Press, 2020.
- [7] DEUDNEY, D.; IKENBERRY, G. J.. **The nature and sources of liberal international order.** *Review of international studies*, 25(2):179–196, 1999.
- [8] DEUDNEY, D.; IKENBERRY, G. J.. **Liberal world: The resilient order.** *Foreign Aff.*, 97:16, 2018.
- [9] EDWARDS, J. A.. **Make america great again: Donald trump and redefining the us role in the world.** *Communication Quarterly*, 66(2):176–195, 2018.
- [10] FORTIN, C.; HEINE, J. ; OMINAMI, C.. **Latin American foreign policies in the new world order: The active Non-alignment option.** Anthem Press, 2023.
- [11] GILMORE, J.; ROWLING, C.. **Exceptional Me: How Donald Trump Exploited the Discourse of American Exceptionalism.** Bloomsbury Publishing, 2021.

- [12] GROVOGUI, S. N.. **Sovereigns, quasi sovereigns, and Africans: Race and self-determination in international law**, volumen 3. U of Minnesota Press, 1996.
- [13] HEINE, J.. **A world in crisis**. In: **LATIN AMERICAN FOREIGN POLICIES IN THE NEW WORLD ORDER: THE ACTIVE NON-ALIGNMENT OPTION**. Anthem Press, 2023.
- [14] HEINKELMANN-WILD, T.; KRUCK, A. ; DASSLER, B.. **A crisis from within: The trump administration and the contestation of the liberal international order**. *Hegemonic Transition: Global Economic and Security Orders in the Age of Trump*, p. 69–86, 2021.
- [15] HODGSON, G.. **The myth of American exceptionalism**. Yale University Press, 2009.
- [16] HURRELL, A.. **On global order**. oxford, 2007.
- [17] IGNATIEFF, M.. **American Exceptionalism and Human Rights**. Princeton University Press, 2005.
- [18] IKENBERRY, G. J.. **Liberal internationalism 3.0: America and the dilemmas of liberal world order**. *Perspectives on politics*, 7(1):71–87, 2009.
- [19] IKENBERRY, G. J.. **The liberal international order and its discontents**. *Millennium*, 38(3):509–521, 2010.
- [20] IKENBERRY, G. J.. **The future of the liberal world order: Internationalism after america**. *Foreign affairs*, p. 56–68, 2011.
- [21] IKENBERRY, G. J.. **The plot against american foreign policy: Can the liberal order survive**. *Foreign Aff.*, 96:2, 2017.
- [22] IKENBERRY, G. J.. **The end of liberal international order?** *International Affairs*, 94(1):7–23, 2018.
- [23] JORGENSEN, M. A.. **American foreign policy ideology and the rule of international law: Contesting power through the international criminal court**. 2015.
- [24] KANTER, A. S.. **Let's try again: Why the united states should ratify the united nations convention on the rights of people with disabilities**. *Touro L. Rev.*, 35:301, 2019.

- [25] KESSLER, O.. **Conceptual history in international relations: From ideology to social theory?** In: ROUTLEDGE HANDBOOK OF HISTORICAL INTERNATIONAL RELATIONS, p. 551–561. Routledge, 2021.
- [26] KIRSCHNER, T. C.. **A reflexão conceitual na prática historiográfica.** Textos de História - Revista do Programa de Pós-graduação em História da UnB., 15(1/2):49–61, 2007.
- [27] KOH, H. H.. **The trump administration and international law.** Washburn LJ, 56:413, 2017.
- [28] KOH, H. H.. **Why america should ratify the women’s rights treaty (cedaw).** Case W. Res. J. Int’l L., 34:263, 2002.
- [29] KOSELLECK, R.. **Social history and conceptual history.** International Journal of Politics, Culture, and Society, 2:308–325, 1989.
- [30] KOSELLECK, R.. **Uma história dos conceitos: problemas teóricos e práticos.** Revista Estudos Históricos, 5(10):134–146, 1992.
- [31] KOSELLECK, R.. **Futures past: on the semantics of historical time.** Columbia University Press, 2004.
- [32] KOSELLECK, R.; RICHTER, M.. **Introduction and prefaces to the geschichtliche grundbegriffe.** Contributions to the History of Concepts, 6(1):1–37, 2011.
- [33] LANGHELLE, O.. **International Trade Negotiations and Domestic Politics.** Routledge, 2014.
- [34] LEHTI, M.; PENNANEN, H.-R.. **Beyond liberal empire and peace: Declining hegemony of the west? Contestations of Liberal Order: The West in Crisis?,** p. 17–59, 2020.
- [35] LIPSET, S. M.. **American exceptionalism: A double-edged sword.** WW Norton & Company, 1996.
- [36] MADSEN, D. L.. **American exceptionalism.** Edinburgh University Press, 1998.
- [37] MAIN, T. J.. **The Rise of the Alt-Right.** Brookings Institution Press, 2018.
- [38] MAYER, A. E.. **Reflections on the proposed united states reservations to cedaw: Should the constitution be an obstacle to human rights?** Hastings Constitutional Law Quarterly, 23(3), 1996.

- [39] MCCOY, T.. **How joseph stalin invented ‘american exceptionalism’**. *The Atlantic*, 3(15):2012, 2012.
- [40] MEINDERTS, T.. **Intermestic realism: Domestic considerations in international relations**. 2020.
- [41] MUDDE, C.. **The Far Right Today**. Polity Press, 2019.
- [42] MUDDE, C.. **The far-right threat in the united states: A european perspective**. *The ANNALS of the American Academy of Political and Social Science*, 699(1):101–115, 2022.
- [43] MURPHY, J. F.. **The United States and the rule of law in international affairs**. Cambridge University Press, 2004.
- [44] NAUCK, B. J.. **Implications of the united states ratification of the united nations convention on the rights of the child: civil rights, the constitution and the family**. *Clev. St. L. Rev.*, 42:675, 1994.
- [45] NEUMANN, I. B.. **Returning practice to the linguistic turn: The case of diplomacy**. In: *PRAGMATISM IN INTERNATIONAL RELATIONS*, p. 98–116. Routledge, 2009.
- [46] NORRLOF, C.. **Hegemony and inequality: Trump and the liberal playbook**. *International Affairs*, 94(1):63–88, 2018.
- [47] ÖNIŞ, Z.. **The age of anxiety: The crisis of liberal democracy in a post-hegemonic global order**. *The International Spectator*, 52(3):18–35, 2017.
- [48] PARMAR, I.. **The us-led liberal order: imperialism by another name?** *International Affairs*, 94(1):151–172, 2018.
- [49] PARMAR, I.; FURSE, T.. **The trump administration, the far-right and world politics**. *Globalizations*, 20(5):799–813, 2023.
- [50] PENNANEN, H.-R.; KRONLUND, A.. **Imagining the west in the era of america first**. *Contestations of Liberal Order: The West in Crisis?*, p. 201–232, 2020.
- [51] POLLACK, M. A.. **Trump as a change agent in international law: Ends, means, and legacies**. 2022.
- [52] RESTAD, H. E.. **American Exceptionalism: An idea that made a nation and remade the world**. Routledge, 2014.

- [53] RESTAD, H. E.. **Whither the “city upon a hill”? donald trump, america first, and american exceptionalism.** *Texas National Security Review*, 3(1):62–92, 2019.
- [54] RESTAD, H. E.. **What makes america great? donald trump, national identity, and us foreign policy.** In: *THE TRUMP PRESIDENCY*, p. 19–34. Routledge, 2022.
- [55] ROBERTS, A.. **Is international law international?** Oxford University Press, 2017.
- [56] RUGGIE, J. G.. **Multilateralism: the anatomy of an institution.** *International organization*, 46(3):561–598, 1992.
- [57] RUGGIE, J. G.. **American exceptionalism, exemptionalism and global governance.** Princeton University Press, 2005.
- [58] RUTKOW, L.; LOZMAN, J. T.. **Suffer the children: A call for united states ratification of the united nations convention on the rights of the child.** *Harv. Hum Rts. J.*, 19:161, 2006.
- [59] SAITO, N. T.. **Meeting the enemy: American exceptionalism and international law**, volumen 65. NYU Press, 2010.
- [60] STEIN, M. A.. **A quick overview of the united nations convention on the rights of persons with disabilities and its implications for americans with disabilities.** *Mental and physical disability law reporter*, 31(5):679–683, 2007.
- [61] STOKES, D.. **Trump, american hegemony and the future of the liberal international order.** *International Affairs*, 94(1):133–150, 2018.
- [62] TYRRELL, I.. **American exceptionalism: A new history of an old idea.** University of Chicago Press, 2022.