The Political Economy of US Territories and Indian Country

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Concerning international political economy, US territories both are and are not American. For example, firms sew "Made in America" labels into clothing in the Northern Mariana Islands and Guam, whereas those firms operate under the territories' own labor and business regulations. Firms incorporating in the US Virgin Islands are in the United States but can benefit from offshore tax relief. Economic data from American Samoa show up in World Bank country-level databases, requiring scholars to consider what type of political entity should be included in their analyses. Puerto Rico has benefited from its American "brand" on international bond markets in good times but, in bad times, any bailout is subject to the whims of the US Congress because the territory is excluded from bankruptcy law for US municipalities.

In short, US territories often interact with international financial- and capital-market actors in ways analogous to sovereign states. However, the United States determines the legal boundaries of the US territories' presence on the international stage. The US territories also rely on the US government to provide one of the basic functions of a fully sovereign state: security. Thus, US territories are not traditional subnational units and neither are they sovereign Westphalian states. Instead, they are "semi-sovereign" entities, enabled by a hierarchical power to act with limited autonomy, particularly concerning their political economies. Analytically, they lie somewhere between "bringing the state back in" or leaving it out (Evans, Rueschemeyer, and Skocpol 1985). US territories, and the larger category of semi-sovereign entities around the world, generate underexplored variation that provides researchers and educators leverage on the political economy of globalization.

In addition to the focus on US territories throughout this symposium, the United States is home to another set of semi-sovereign entities. Chief Justice John Marshall famously characterized the hundreds of American Indian and Alaskan Native (AIAN) tribes as "domestic dependent nations."[1] According to US law, the lands under AIAN jurisdiction are "Indian Country"—a broad moniker that captures a diverse set of 326 reservations, pueblos, rancherias, missions, villages, and communities.[2] The 2010 US Census identified approximately two million AIAN people living on or near Indian Country, equivalent to about half of the population of the US territories (i.e., 4.1 million).

Under US law, tribes in Indian Country and US territories are clearly distinct. For example, in the majority opinion in *Puerto Rico* v. *Sanchez-Valle* (2016), the US Supreme Court found that Indian tribes "count as separate sovereigns" for purposes of double jeopardy but Puerto Rico does not.[3] Nevertheless, concerning their political economies, both tribes and territories share a liminal status that allows them to sometimes imitate sovereigns. Their status has overlapped most clearly since the late twentieth century, the result of modern federal–Indian relations that focus on maintaining tribal autonomy (rather than threatening it, as has been true in the past). Today, tribes have autonomy over membership criteria as well as many issues relevant to political economy, including taxation, regulation, and environmental standards. Many (although not all) tribes have jurisdiction over criminal and/or civil law on their lands. Although the details of tribes' and territories' semi-sovereignty are different, both are enabled by a hierarchical power to have limited autonomy over their political economies. As such, US territories and Indian Country consist of semi-sovereign entities that can interact with external financial and capital markets, with political consequences.

US territories and Indian Country can and do exploit their unique positions concerning the management of their political economies. However, these semi-sovereign entities often "fly under the radar" of scholars and policy makers, in contrast to traditional Westphalian states that find it difficult to hide (Kelley and Simmons 2015). Being overlooked has real consequences. From 2014 to 2016, rapacious actors appear to have effectively stolen US $60 million in tribal bonds from the Oglala Sioux Tribe in South Dakota.[4] This scandal landed a semi-sovereign entity (with 40,000 enrolled members) in an existential crisis—although this crisis is invisible to many (if not most) outsiders. Disgraced lobbyist Jack Abramoff's involvement in the Northern Mariana Islands raised US political interest in labor rights in the territory—but only for a time.[5] The artist Lin-Manuel Miranda, of Puerto Rican heritage, resorted to promising "Hamilton" tickets to congressional members in exchange for their increased attention to the territory's debt crisis.[6]

Compare their inconspicuousness with perceptions of small Westphalian states, which have unquestioned international recognition and access to international institutions. For example, multiple financial-pyramid schemes rocked Albania's economy and politics in 1996–1997. This state of about three million people found international sympathy and received long-term assistance from the International Monetary Fund (IMF) and the World Bank in its recovery (Jarvis 2000). Even microstates including San Marino, Andorra, and Liechtenstein are members of the Council of Europe, and the EU recognizes and interacts with them on the inter-state stage. These sovereign

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states benefit from both autonomy and recognition, whereas semi-sovereign entities have limited autonomy and limited recognition. The British Overseas Territory Gibraltar, a semi-sovereign entity, surely wishes its access to international institutions were not conditional on the United Kingdom: 94% voted against Brexit.[7] Puerto Rico's semi-sovereignty is not sufficient for it to access an IMF bailout. The fact that semi-sovereign entities do not have clear access to global governance institutions—particularly in a time of crisis—highlights exactly how useful sovereignty is in an era of globalization. More scholarly attention to semi-sovereign entities can illustrate the consequences of inattention as well as better characterize the benefits of full sovereignty.

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The following section illustrates how US territories and Indian Country act like sovereigns with respect to trade, investment, finance, and migration. Subsequent sections delve into two topic areas in international relations (IR) for which the study of US territories and Indian Country are particularly well suited: (1) our understanding of international hierarchy; and (2) the boundaries of the state under globalization. The final section highlights how US territories and Indian Country can illustrate a larger class of semi-sovereign entities while also informing scholarship on the political economy of traditional, Westphalian states.

"INTERNATIONAL" POLITICAL ECONOMY

"International" trade, investment, finance, and migration—the key elements of international political economy—manifest in US territories and Indian Country. As such, these semi-sovereign entities provide foundations for fruitful research agendas while also generating points of departure for courses on international political economy.

First, with regard to trade, US territories and Indian Country benefit from their American brand when trading with other countries—as well as with the 50 US states and the federal government—because their goods qualify as "Made in America." At the same time, they are not necessarily constrained by US federal law.[8] For example, contracts with AIAN tribes are exempt from the Obama administration's executive order for a minimum-wage hourly increase to US$10.10 for federal contractors and subcontractors.[9] Congress varies in its willingness to let US territories set their own labor regulations. Guam's 2016 minimum wage (US$8.25) is above the federal floor (US$7.25), although the minimum wage in American Samoa is as low as US$4.60. Variations in tax law in the US territories have run afoul of the World Trade Organization (WTO). In response to a complaint by the European Communities, the WTO ruled in 2000 that preferential US tax treatment of "foreign-sales corporations" incorporated in the US Virgin Islands and Guam amounted to an illegal export subsidy.[10] Of particular relevance to IR curricula, semi-sovereign entities such as the US territories and Indian Country test the limits of arguments that there is an international "race to the top" in regulatory standards rather than a "race-to-the-bottom" dynamic (Mosley and Uno 2007; Prakash and Potoski 2006).

Second, direct investment plays a role in the political economies of semi-sovereign entities. Tribes in Indian Country have made their mark in recent years by using their special sovereign rights to grow the gaming industry, usually through tribal joint ventures or service contracts with "foreign" (i.e., non-Indian) gaming firms. Tribes also have exercised sovereignty in imposing environmental regulations on fracking and other natural-resource extraction on tribal lands—although sometimes these regulations are more lax, sometimes more strict than those in neighboring US municipalities. Puerto Rico famously built its economy in recent decades on the back of subsidies to pharmaceutical manufacturing, which combined with the territory's attractive access to the US market. However, mirroring the experience of many developing countries (and US municipalities), Puerto Rico's onetime incentives did not prevent the pharmaceutical industry from moving en masse to other locations. US territories and Indian Country illustrate the types of political tools that even semi-sovereignty can provide in the competition for direct investment, as well as the limitations of those tools.[11]

Third, with the Puerto Rican debt crisis and the Panama Papers' data on the role of territories (US and otherwise) in investors' search for low-tax jurisdictions, semi-sovereign entities are shaping the future of international finance. Indian Country also has run-ins with finance. Tribal governments issue bonds as sovereigns, but to find buyers and keep prices down, they execute "waivers of sovereign immunity." These waivers specify that in the event of a bond claim against the tribal government, proceedings will take place in a US court rather than a tribal court.[12] It is interesting that tribal governments sometimes circumvent difficult and expensive market access by borrowing from one another, although these loans "fly under the radar" of traditional financial markets. Individual credit also is underprovided in Indian Country, although AIAN borrowers with recourse to US civil law—rather than tribal law—can find better off-reservation rates (Wellhausen 2016). Semi-sovereign entities can provide information for understanding the politics of economic crisis, as well as more general insights into the determinants of access to external capital.

Fourth, residents of semi-sovereign entities deal daily with the political economy of migration and remittances. Leaders in Indian Country struggle to keep tribal members living, working, and spending their income within tribal lands. Tribal members balance cultural and economic factors that pull them to stay on tribal lands or push them to look for employment in US municipalities and send money back home. Internal migrant communities in the United States that come from territories such as Puerto Rico also often retain close financial ties to home.[13] However, residents of US territories and Indian Country receive some welfare benefits from US federal programs. Thus, their remittances need not substitute for otherwise absent social safety nets, as is common in remittances sent home to developing countries (Duany 2010). This variation can inform the ongoing debate about whether remittances complement or substitute for political action in recipient states. In general, remittances to US territories and Indian Country illustrate understudied (and undertaught) aspects of the push and pull of economic globalization around migration.

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APPLICATION: HIERARCHY

How specifically might US territories and Indian Country be included on IR or international political economy syllabi? One point of entry is in the consideration of international hierarchy in this postcolonial and post–Cold War era. Hierarchy is a topic of renewed interest in IR that is on syllabi in various guises, such as in the study of empire, the international projection of power, and great-power dynamics. Much of the recent work on hierarchy in IR has made progress by building theory around the role of security (Lake 2011; McCormack 2015; McDonald 2015). US territories and Indian Country can provide inroads to the political economy of hierarchy in the international system. Hierarchy allows US territories and Indian Country to be semi-sovereign with respect to their political economies, without providing for their own security.

A specific focus on US territories and Indian Country illustrates the scope of US power in today's global economy, as well as the dynamics of political economy within a given hierarchy. Particularly in American classrooms, material on US territories and Indian Country can provide a bridge to introducing other hierarchies, in which other Westphalian states (e.g., the United Kingdom and France) allow their semi-sovereign entities to experiment with economics while relying on an external source of security.

Furthermore, a consideration of Indian Country under the guise of hierarchy in IR would draw an important link to a body of work on the political economy of indigenous peoples, whether in the United States, Canada, Australia, or elsewhere. Scholars have illustrated how economically disadvantaged indigenous groups can access national institutions (Evans 2011a; 2011b); how historical compromises and injustices shape indigenous opportunities today (Spirling 2012); and how interest-group dynamics work in indigenous communities (Hansen and Skopek 2011; Wilkins and Stark 2011); as well as numerous other related topics of inquiry (Evans 2014). Considering Indian Country in IR curricula and scholarship can prevent this relevant literature from being sidelined.[14]

APPLICATION: BOUNDARIES OF THE STATE

A second key point of entry for US territories and Indian Country into IR and international political economy syllabi is through the debate about the boundaries of the state under conditions of globalization. Puerto Rico's dire economic circumstances perversely illustrate one benefit of being a traditional state or a traditional subnational unit—but not something in between. If Puerto Rico were fully sovereign, it would be able to more clearly "declare bankruptcy" and then rely on international institutions such as the IMF to smooth painful restructuring processes. If Puerto Rico were clearly treated as a US municipality, it would have access to Chapter 9 protections and could restructure in that way.[15] As neither, actors on international markets that trade in Puerto Rican debt have little clarity about how Puerto Rico will become healthy again, which only exacerbates the crisis. The speed and certainty with which the US Supreme Court and Congress determine the political economic boundaries of Puerto Rico's semi-sovereignty—now that crisis has made those boundaries salient—have real consequences for the individual welfare of Puerto Ricans.

Work on "forum shopping" in international trade or the growing phenomenon of "nationality shopping" concerning access to international investment protections also explores the boundaries of the state in the global economy (Busch 2007; Davis 2009; Wellhausen 2015). US territories and Indian Country are again illustrative. When firms incorporate in US territories that exist within the hierarchy of the United States, they benefit from access to US markets while still reaping benefits from being outside of traditional US jurisdiction. Such liminal cases allow scholars to hold constant certain variables—such as the effect of an American "brand"—while exploring the consequences of legal and institutional variation. Additionally, historically fraught federal–Indian relations generated complexities in property rights (e.g., "checkerboarding") as well as civil and criminal law in Indian Country (Akee 2009). Scholars and educators can exploit the impact of political boundaries on the behavior of firms and governments, illustrating core IR concepts without going outside of the greater United States.

Uniquely, semi-sovereign entities illustrate dynamics specific to both state and nonstate actors in the international political economy. The neither-in-nor-out status of semi-sovereign entities means that they can be conceptualized as entities being acted on in the global political economy as well as political economic actors in their own right. In which ways are the United States, Guam, the Navajo Nation, and Wal-Mart on the same spectrum? How are they different? Asking these questions in the classroom allows an educator to encourage student understanding of the meaning and consequences of sovereignty in the global economy.

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CONCLUSION

Semi-sovereign entities illustrate dynamics around trade, finance, investment, and migration in the modern global economy. Furthermore, they speak to at least two foundational theoretical IR concepts: (1) the political economy of international hierarchy, and (2) the boundaries of the state under conditions of globalization. US territories and Indian Country can certainly provide anecdotes pertinent to otherwise Westphalian-state–centered IR courses. However, as representatives of a broad class of semi-sovereign entities in the world, US territories and Indian Country are more than novelties. Scholars and educators would do well to recognize the variation in sovereignty that these entities generate and, accordingly, to explain the consequences of that variation. In a world marked by debate about the economic relevance of political borders, we should explore the political economy of variation in those borders.

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NOTES

1. *Cherokee Nation* v. *Georgia* (1831). Native Hawaiian communities also are worthy of study as entities with their own political economies, but they fall under different US law and do not participate as clearly in the international political economy.
2. Not every one of the 567 federally recognized AIAN tribes has jurisdiction over land, although some lands are home to multiple tribes. The Bureau of Indian Affairs counts 326 tribal jurisdictions, although they acknowledge this as an approximate number because definitions vary.
3. Docket No. 15-108, 2016. In their opinions, Justices Thomas and Breyer both raised concerns about this interpretation of the status of Indian tribes.
4. "South Dakota Oglala Sioux Tribe Caught up in $60 Million Scam." *Rapid City Journal*, May 13, 2016. The Dakota Access Pipeline protests did not receive widespread attention for several months, when only a few tribes were involved. National press coverage only came after the protests grew through coordination with non-Indian environmental groups, intense inter-tribal cooperation, and the expenditure of massive amounts of resources.
5. Weisman, Jonathan. "Minimum-Wage Bill Stirs Controversy in Pacific Islands." *Washington Post*, January 9, 2007.
6. Lin-Manuel Miranda, on *Last Week Tonight with John Oliver*. "Puerto Rico." HBO, April 24, 2016.
7. A total of 823 Gibraltarians voted to leave. Stephen Moss, "I Am a Rock: How It Feels to be a Brexit Voter in Gibraltar." *Guardian,* June 28, 2016.
8. Nevertheless, US territories cannot sign trade treaties. Puerto Rico last attempted to do so with Japan in the 1980s, but Governor Rafael Hernandez Colón was barred from doing so by the US federal government. I thank a reviewer for this point.
9. "This order shall not apply to grants; contracts and agreements with and grants to Indian Tribes," Section 7(f), Executive Order—Minimum Wage for Contractors (February 12, 2014).
10. WTO Dispute DS108, United States: Tax Treatment for "Foreign Sales Corporations," brought by the European Communities (Appellate Body Report, February 24, 2000).
11. Along these lines, the experiences of US territories and Indian Country also speak to those of subnational units such as cities that use incentives but do not have semi-sovereign status (Jensen, Malesky, and Walsh 2015).
12. Only the Navajo Nation (with 174,000 enrolled members) is known to have issued debt on US markets without such a waiver. Observers attribute this to the development of Navajo tribal law and the Nation's willingness to incur higher costs at the time of issue.
13. People born in the US territories (except American Samoa) acquire birthright citizenship. However, from a financial point of view, money sent from New York State (for example) to Puerto Rico is an unearned capital flow from outside the domestic economy of Puerto Rico. This surely affects (and is intended to affect) the opportunities available for individuals in—not to mention the government of—Puerto Rico.
14. Looking at Indian Country from an international-history point of view, Gilbert (1975, 239) argued that "ignoring this whole area of diplomatic and semi-diplomatic history causes enormous distortions." See also Cullather and Foster (2015).
15. See the 5–2 decision of the US Supreme Court with regard to Puerto Rico and Chapter 9 in *Puerto Rico* v. *Franklin California Tax-Free Trust* (Docket No. 15-233, 2016).

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