



### **Acknowledgments**

I would like to express my profound sense of gratitude toward my professor and supervisor Dr. Simon Clarke for his endless patience and priceless knowledge that he gave me as well as his belief in me. I would also like to extend my thanks to all my professors in PSIA program for the great learning experience during the last two years.

My special thanks to my parents for enabling me to study at AUA and giving me the support and encouragement in my studies.

## **Compliance and Non-Compliance of International Norms**

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**Abstract**

While it may appear that states do the rational thing when they sometimes choose not to comply with international norms, we argue that it is rational to comply with them. We propose a contrarian theory of compliance for states, which grounds on the key argument that non-compliant states will be excluded from the regimes of cooperation. State would usually be motivated with a utility maximizing incentives to join such regimes because they offer benefits of collective action to their members. However, the compliance with the norms of any collective plan is a rather complicated issue. Some states might want to take the benefits from collective action but refuse to pay the costs for it. The non-compliant behavior is exhibited when it comes to sharing the burdens. The non-compliant states would *seem* to be maximizing their utility better than the compliant states because they receive the same benefits but pay nothing for it. Contrary to this hyper-rational account, compliant states would find it rational to resist the desire of individual utility maximization by means of adopting a cooperative policy and following through it as long as the mechanism exclusion non-compliant states works.

### Introduction

The structure of international relations may be best described with the absence of global governance agency. As there is no world government, states will need to resort on “self-help” measures to protect and advance their national interests. Thus, the international system will resemble a community of self-interested actors. The absence of centralized agency for the enforcement of international norms will have its implications on the reasoning and behavior of the states. It may appear that the best strategy to act on, under such conditions, is suggested in the realist theory. Following norms, customs, treaties and other kinds of constraining mechanisms may seem to lead to the self-destruction if others do not do the same. This type of reasoning is similar to that of classical economic rationality of increasing one’s utility by choosing the best response *at each moment* in time. However, we may observe that many states comply with international norms and follow courses of actions which could also be grounded on the rational basis of utility maximization. It is interesting, if not puzzling, to see a state give up its utility maximizing strategies for the sake of complying with international norms. The purpose of the current research is to find the answer to the question of *why states comply with international norms in the absence of global governance agency*.

To this end, we reflect on scholarship concerned with the compliance of agents when there are incentives to deviate. As we are concerned with normative reasons of compliance, most of theories in this field discuss the problem of compliance on the basis of rational choice theory. In fact, the empirical studies on compliance problem are much debated because of the methodological difficulties of measuring the compliance of states. Moreover, the interpretations of non-compliance with international norms are prone to be biased because of political reasons. Therefore, we will employ the method of critical analysis coupled with models from strategic game theory to answer the research question. We find voluminous and insightful normative research carried out at the level of individuals in political theory. We

identify assumptions in the previous research to test them in the realm of international relations. These assumptions need to be true in international relations as well in order to provide the necessary conditions for the validity of our hypothesis at the level of nation-states. Then, we also test our hypothesis against criticisms arguing that there are more issues beyond the mere difference of levels between states and individuals. If our argument resists the objections to be raised, then it would be an applicable theory explaining the compliance and non-compliance of states given the absence of global governing agency.

Before proceeding to the detailed discussion, it is worth emphasizing the fact that this research will expand our understanding of the dealings of states but it will not provide us with predictive capacities. One cannot use our hypothesis to make speculations and, even more so, inferences about the future actions of the states. The limitation does not lie in our argumentation but it is something innate to the strategic game theory which is part of our methods.

### **Problem Statement**

Anarchy is considered to be the fundamental feature describing the structure of international relations. It is important to emphasize that anarchy in international relations bears a technical meaning. It is not intended to mean the condition of chaos or the complete absence of order. International anarchy refers to the absence of a global governance agency. There is no centralized political authority with the necessary powers to enforce the implementations of international laws, conventions, agreements, treaties, norms or any other forms of principles. The lack of global government makes the individual states to rely solely on their own power to defend and advance their national interests. Thus, states are forced to resort on—what it is commonly termed—“self-help” measures to pursue their interests. As a result of this “self-help” approach, the whole international system appears to resemble a community of egoists, where everyone is only concerned with their interests (Donnelly & Ebrary, 2000, pp. 85–88; Keohane, 1986a, p. 163; Morgenthau, 1954, pp. 4–13; Waltz, 1979, pp. 117–122).

The type of international anarchy in question here is best elaborated and understood in the light of Hobbes’s *Leviathan*. The Hobbesian state of nature may be thought of as the starting environment where all self-interested agents find themselves. Hobbes argues that people originally possess unlimited liberty to exercise their powers and “even to one another’s body” (Hobbes, 1974, p. 64), which derive from their right of nature. While each individual agent—equipped with unrestrained power—pursues their own preservation in the State of Nature, collectively they confront a deadly rivalry. Consequently, the agents will end up in a “war of all against all” type of situation, which is obviously a sub-optimal outcome. Since state of war may have fatal consequences for the preservation, the first law of nature tells that “every man, ought to endeavor Peace, as farre as he has hope of obtaining it”, but with the additional condition of “when he cannot obtain it, that he may seek, and use, all helps, and advantages of Warre” (Hobbes, 1974, p. 64). If their freedom of action presents threat to their

existence—or the national interests more generally—then agents should be interested in restraining their capacities of maximization. Hence, the second law suggests that “a man be willing, *when others are so too*, as farreforth, as for Peace, and defence of himselfe he shall think it necessary, to lay down this right to all things; and be contented with so much liberty against other men, as he would allow other men against himselfe” (Hobbes, 1974, pp. 64–65). We share the Hobbesian view that giving up some part of freedom of action—deriving from the right of nature—is necessary to establish peaceful or, we would say, cooperative relations. It is worth emphasizing that agents need to give up some part of their right *mutually* because everyone of them benefits from the others’ abstention from using the right. No one can gain anything from unilateral abstention from using the right of nature.

Hobbes offers the Laws of Nature in order to constrain the behavior of agents for the sake of their preservation. However, Hobbes himself realizes that it will not be rational to comply with constraining norms, when the other agents do not follow them. Barely can one survive in an environment of agents, which are only concerned with the maximization of their potential, power and utility. A state complying with international norms in an environment of self-interested agents will not survive or, as Hobbes would say, he will “make himself a pray to others, and secure his own certain ruine” (Hobbes, 1974, ch. 15, p. 215).

Hobbes realizes the importance of following through with one’s commitments. There is no point if agents only agree on but do not implement their commitments. To this end, the third law of nature dictates that the “Originall of Justice” is the case when “men performe their Covenants” (Hobbes, 1974, p. 71). A just person may be considered the one who actually observes the principles of an agreements that he has joined.

The above discussed self-interested motives seem to explain the rationale why failures of collective action would occur in international relations. In fact, there is voluminous scholarship trying to address the challenges in collective action (cf. Hardin, 1968; van



Laerhoven & Ostrom, 2007; Wallner, 2002). These studies accept that collective action is taken to protect common goods. Typically, the common good in *Leviathan* is peace, which every person would seek through cooperation or performance of their “Covenants”. However, Hobbes believes that such a collective action is doomed to failure due to the self-interested motives of the persons. Garrett Hardin (1968) offers a symbolic representation of collective action failure in his *Tragedy of the Commons* where the lands in common use are overgrazed to the degree of depletion. On one hand, there is the Hobbesian solution to the problem. It recommends to set a Sovereign, or in our terms, to form a global governance agency. The global government would obviously be a costly solution due to the resources necessary for running its institutions of supervision, judiciary, and rectification. On the other hand, there is the economic solution which offers the provision of common goods through privatization. If a common good is privatized, then the agents will care about the future of their properties due to the self-interested motives. Hence, collective action is thought to be a possible scenario. However, this solution cannot work in international relations. The problem lies in the types of goods to be privatized. The goods in international relations expand transnationally and are not divisible along the national boundaries. If it is impossible to provision these goods through privatization and they remain in common use, then free riding nations will emerge who will not be willing to observe their commitments.

The rationality of free riding and not complying with one’s international commitments can be elaborated with the use of Prisoner’s Dilemma game (Figure 1). The cooperation with other agents means restraining one’s maximization potentials for collective good. If everyone is compliant and, consequently, cooperates, then socially optimal payoff ( $R$ ) is expected for each agent. The restrained maximization may be seen as the cost one pays for receiving the benefits of collective action. When an agent decides not to comply with the norms in an environment of cooperators, it can gain the highest possible payoff ( $T$ ). This payoff also

includes the benefits derived from collective action but not the costs for it, because one is free riding while others pay costs for the collective good. However, agents paying the costs in an arrangement with free riders will receive reduced benefits ( $S$ ), because the free riding agents take up some share of the collective goods, which could have been distributed among the cooperating, or honest agents. In the case of no one cooperating, there is neither collective the benefits gained from collective action, nor the costs paid. Hence, the payoffs of non-cooperation ( $P$ ) are lesser than the socially optimal ( $R$ ) payoff, but higher than the payoff of unilateral cooperation ( $S$ ).

	<i>Cooperate</i>	<i>Defect</i>
<i>Cooperate</i>	R, R	S, T
<i>Defect</i>	T, S	P, P

**Figure 1:** Prisoner's Dilemma matrix with conventional payoff variables, where  $T > R > P > S$ .

The agents in collective action have a dominant strategy to defect as it is the case in Prisoner's Dilemma game. When the other side is disposed not to cooperate, then one should not cooperate as well because  $P > S$  in the payoffs. Even if the other side is inclined to cooperate, the defection is still a better strategy to adopt because  $T > R$  in the payoffs. As all of the agents face the same problem and have the defection as their dominant strategy, the Nash equilibrium would be mutual non-cooperation. Hence, the initial impression appears to suggest that it is rational for the states not to be cooperative in deciding whether to observe their international commitments.

As it may be seen in the real world, there are many states which comply with

international norms in international anarchy. Brian Barry (1991) even speculates that there may be as many honest states as cheating ones (Barry, 1991, p. 160). Then, he continues to his argument that:

. . . the notion that in the absence of a core centrally enforced norms there can be no others that are effective is simply erroneous. Huge numbers of international transactions take place every day on the basis of norms that the parties rely on and, in fact, adhere to—some codified into international law and others developed through custom. (p. 166)

An honest state is the one that will exhibit compliant behavior even when there is an opportunity for defection. Truly, it might sound puzzling to see cooperation emerging among self-interested agents and observance of international norms in international anarchy.

In an attempt to answer this puzzle, it was argued that states have multiple interactions over the time rather than just a one-time encounter. A voluminous scholarship tried to explain how cooperation may emerge among the self-interested agents with the help of Repeated Prisoner's Dilemma (RPD) games (Axelrod, 1981, 1984, pp. 27–54; Keohane, 1984, 1986b, pp. 2, 7–15). Robert Axelrod (1981) presented an innovative approach to prove that cooperation may emerge among egoists. He used computer simulated tournament to test which strategy in the RPD games scores the highest. Among the strategies of reciprocity, Tit for Tat (TFT) yielded the best outcomes, which recommends to start the game with a cooperation and to punish the other side with a defection on the following interaction if the other side defected in the current interaction. The author contended that the highest scoring strategy would be the best strategy for rational agents. Robert Keohane (1986b) used this

approach to explain why would states defect in international regimes, where reciprocation of good manners is expected. He believed that Robert Axelrod's (1981) findings can be used for explaining cooperative behavior, or reciprocation in international regimes in Keohane's terms (cf. Keohane, 1982; Keohane, 1986b).

Though the use of RPD games was a quite convincing way of explaining the cooperation, there are strong counter-arguments against both finite and infinite types of RPD games. Impatient states will not resist the temptation and prefer the  $T$  payoff gained with defection at the current round over the  $R$  payoffs to be gained in the future rounds. The rationale behind this argument is that if there is a last round in the RPD game, then both of sides playing the game will be tempted to defect in the last round of the game, because there is no retaliatory defection to follow. However, the defection does not remain constrained to the last round of game. It spreads backwards in the game with a "domino effect." Each of the player—anticipating a defection at some point in the future—decides to defect in the current round. Hence, the equilibrium of the game switches to mutual defection in the finite RPD games. Kydd (2015) argues that the rewards in future rounds can be underestimated in present or, better to say, reduced to a degree, when they equate to zero. If the mutual cooperation will not benefit anyone, then the future rounds of infinite RPD game will be pointless. Thus, an infinite RPD game will resemble a finite RPD game and the mutual defection will become a preferable strategy in infinite RPD games. Furthermore, Jimmy Fearon and his colleague (1996) discussed another reason for the defection in the current round. States will take the action of "preventative" defection in an attempt to gain *relative* advantage at the current round and be in the position of the strong in future (Fearon & Laitin, 1996, pp. 180–193). This strategy is in line with the doctrine of realism, which recommends as well as expects a nation to maximize its capacities (Fearon & Laitin, 1996, pp. 170–172, 180–193; Kydd, 2015, p. 147). In other words, underestimation of future benefits arguably

may lead to non-cooperative course of actions by impatient agents. (Kydd, 2015, pp. 136–141).

As the argument of RPD games confronts serious challenges, it is quite puzzling to see states often cooperating in Prisoner's Dilemma type of situation. In this research, we will try to answer why states comply with international norms given the anarchic structure of international relations. We aim to present an account based on rational choice theory, that may explain the research question proposed here. There is also another reason employing methods of critical analysis for this research. It is much debated whether the rate of compliance of states is possible to adequately measure (Chayes & Chayes, 1993).

### A Cooperative Policy: Constrained Maximization

A paradox of rationality can serve as a good start to the discussion because it can assist us in deliberation of David Gauthier's (1986) theory of compliance from *Morals by Agreement*. The paradox—named the toxin puzzle—was first portrayed by Gregory Kavka (1983):

You are feeling extremely lucky. You have just been approached by an eccentric billionaire who has offered you the following deal. He places before you a vial of toxin that, if you drink it, will make you painfully ill for a day, but will not threaten your life or have any lasting effects. (Your spouse, a crack biochemist, confirms the properties of the toxin.) The billionaire will pay you one million dollars tomorrow morning if, at midnight tonight, you intend to drink the toxin tomorrow afternoon. (pp. 33–36)

The answer that one should drink the toxin and receive the money appears to be what one should do because you earn a tangible amount of money at the cost of suffering through one-day-long illness, which will not even leave any impact on your life in future. However, this answer is a simplistic view the matter. We will discover that the rational response is more complex if we consider the paradox carefully. In the paradox, you are promised to be given the money *before* you have even drank the toxin. Apparently, you need to consume the toxin *after* you receive your premium. It is puzzling to see what reason justifies to comply and suffer the *burden*, when you already accrued your *benefit*. Before taking the toxin, you had the reason to bear the burden but the reason loses its point as soon as you receive the benefit. In this view, it sounds like you should take the reward and later not consume the toxin.

As it has already been mentioned, this is a complex problem and you cannot still get

the money because the eccentric billionaire did not promise to reward you with money for *drinking* the toxin but for *intending* to drink the toxin. We were not genuinely intending to drink the toxin as long as we were thinking of taking the money and then refusing to drink the toxin. The eccentric billionaire knows your true intention because the condition of perfect information is assumed. As a result, we are confronted with a paradoxical situation (Kavka, 1983; Ohlin, 2015, p. 121).

The billionaire's toxin offer may be a good option to follow through in its entirety. I can make a great amount of money and make my life go better overall at the expense of only one day long discomfort. However, our mind is captivated by the unquestioned temptation of a better outcome, which is comprised of the benefits only and no costs involved. The rationality of defecting at the time of bearing the burdens is grounded on the basis of individual utility maximization. A simple answer that will ease comprehending the problem is to posit that I have promised or signed an agreement to drink the toxin. However, you were not asked to bind yourself neither morally or legally in this thought experiment. The only condition proposed was to truly and rationally *intend* to follow through with the commitment to bear the burden. In other words, the purpose of the toxin paradox was to show that it is *rationality*—not law or morality—demanding us to comply with constraints on our actions (Kavka, 1983; Ohlin, 2015, pp. 120–122).

David Gauthier proposed a theory of compliance for persons. He has the intention to explain why fully rational and self-interested persons would want to agree upon having moral principles as restraints on their interactions with one another. His purpose is to provide a basis for a theory of moral principles from a contractarian approach. He contends that it would be rational for an agent<sup>1</sup> to choose a cooperative course of actions, that can result in optimal outcomes if reciprocated, rather than to choose the course of actions that are intended to bring

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1 For shifting the focus to the rational choice theory behind Gauthier's theory, we will use the term "agent" to refer to any type of decision making entity, including persons, nation-states, etc.

about individual utility maximization. The aim of this paper is to apply his theory of compliance to international relations where the agents would be nation-states instead of persons.

The cornerstone of Gauthier's (1986) theory of compliance with moral principles is the Hobbesian (1974) argument that those, who do not have the intention of cooperating with others, will not rationally be accepted into the community of cooperators:

He . . . that breaketh his Covenant, and consequently declarth that he thinks he may reason do so, cannot be received into any Society, that unite themselves for Peace and Defence, but by the error of them that receive him; nor when he is received, be retaind in it, without seeing the danger of their error; which errors a man cannot reasonably reckon upon as the means of his security. (Ch. 15, p. 72)

David Gauthier argued that agent can rationally choose *dispositions*, which will provide guidelines to act in certain ways. These disposition can be thought of as character traits. Classical economic rationality recommends a disposition that will be concerned with the maximization of the agent's utility at *each moment* in time. Persons with this disposition will consider cooperation as a realistic course of actions only if the utility obtained from it will be no less than what they would have obtained from the defective course of actions (Gauthier, 1986, p. 165). However, this reasoning could lead us to a conceptual trap that we should try to avoid. Agents need to choose their course of actions based on the disposition of making one's life better *overall*. An effort should be made not to choose the course of actions based on the disposition that would evaluate the payoffs and decide the necessary action at each encounter with other agents (Gauthier, 1986, p. 162). In an earlier work Gauthier also discusses this choice problem as "a lottery over the possible actions" available to a single



agent as compared with “a lottery over possible outcomes” available to cooperating agents with a joint strategy (Gauthier, 1975, pp. 424–433; Gauthier 1986, p. 166). For this reasons, rational utility-maximizing agents would prefer choosing their course of actions based on a disposition that leads to socially optimal outcomes. Gauthier also believes that cooperation will yield optimal outcomes because there is no costs involved, which was more formally presented above in the PD game model. Rational agents would be interested to make their decisions based on a disposition that can yield socially optimal outcome  $(R, R)$  available only to mutually cooperating agents.

In order to achieve a working cooperative arrangement with socially optimal outcomes for participating agents, compliance with a set of constraints on utility maximization is necessary. In the very Hobbesian terms, this requirement would need the cooperating agents to “lay down some portion of [their] original, unlimited rights of nature” (Hobbes, 1974, Ch. 15). Gauthier contrasts two different types of dispositions. An agent adopting the disposition of *straightforward maximization* will choose actions that maximize individual utility without cooperating with other agents (Gauthier, 1986, p. 167). In interactions with other agents in uncertainty, such a choice of actions would be the standard recommendation of classical rationality. The action, which this disposition recommends to take, would be the same as the dominant strategy leading to Nash equilibrium in PD game. However, Gauthier (1986) argues that a rational agent would choose a disposition of *constrained maximization* which requires the agent to act in accordance with the constraints of a cooperative plan leading to socially optimal outcomes. Any agent with such disposition will confront a challenge in deciding to comply with the constraints of his cooperative community because one will not be able to make his life go better with unilateral cooperation. For the agents to find the cooperative course of actions rational, the expected utility gained from the mutual cooperation should be greater than the expected utility gained from their and

everyone else's individual defective action. For this reason, their decision to cooperate will partly depend on their expectations of what action the other agents will take.

Gauthier (1986) argues that the actions chosen by a constrained maximizer (CM) do not always coincide with the ones chosen by straightforward maximizer (SM) in the same situation. He considers a situations where additional benefits are possible to be gained with non-cooperation while the others cooperate. The situation necessary for his argumentation corresponds with the payoffs gained from the cooperation or defection described in Figure 1 above. In this type of situation, an SM will decide not to cooperate, whereas a CM will decide to cooperate as long as he is convinced that the other agent will also behave cooperatively. The emergence of cooperation comes down to the sufficient probability of interacting with another CM (Gauthier, 1986, p. 170; McClennen, 1988, p. 97).

As we have noted a specific difference between the actions of agents pursuing either constrained maximization, or straightforward maximization in the Prisoner's Dilemma game context, we may currently proceed with the examination of Gauthier's arguments why would a rational actor adopt constrained maximization policy. Gauthier analyzes the problem of taking action in a strategic context rather than in a mere utility maximization context. Thus, an agent has to choose a disposition given that others also choose their fixed dispositions. In such case, even the basic logic of utility maximization would suggest adopting the constrained maximization disposition. A constrained maximizer may be thought of as a disguised utility maximizer but with a strategy (McClennen, 1988, p. 98). As an agent can only have expectation about his utility gains, the expected utility of the agent for taking an individual action or defecting (with payoff  $P$ ), if everyone else also defects, would formally be assigned  $u$ . The expected utility would be assigned as  $u'$  if the agent and the others take their actions in accordance with cooperative scheme (with payoffs  $R$ ). The expected utility of  $u''$  will be obtained if the agent acts on individual strategy (with payoff  $T$ ) in the event of

others complying with the regulations for cooperative scheme. These expected utilities would be characterized with  $u'' > u' > u$  inequality. The first argument by Gauthier (1986) for choosing a disposition would suggest:

*Argument (1):* Suppose I adopt straightforward maximization. Then if I expect the other to base his action on a joint strategy, I defect to my best individual strategy, and expect a utility,  $u''$ . If I expect the other to act on an individual strategy, then so do I, and expect a utility,  $u$ . If the probability that the other will base his action on a joint strategy is  $p$ , then my overall expected utility is  $[pu'' + (1 - p)u]$ .

Suppose I adopt constrained maximization. Then if I expect the other to base his action on a joint strategy, so do I, and expect a utility  $u'$ . If I expect the other to act on an individual strategy, then so do I, and expect a utility,  $u$ . Thus, my overall expected utility is  $[pu' + (1 - p)u]$ .

Since  $u''$  is greater than  $u'$ ,  $[pu'' + (1 - p)u]$  is greater than  $[pu' + (1 - p)u]$ , for any value of  $p$  other than 0. . . . Therefore, to maximize my overall expectation of utility, I should adopt straightforward maximization. (pp. 171–172)

However, it has to be noted here that the argument presupposes that the agent will be able to correctly identify whether the other player with whom he interacts is an SM or a CM (McClennen, 1988, p. 100). Gauthier also recognizes that this argumentation does not sound convincing enough (Gauthier, 1986, p. 172). It has to be acknowledged that every agent in an interaction would want to know whether our agent is a CM or an SM. Our agent would be keen to know the disposition of other agents. Hence, the probability of other agents to employ either straightforward, or constrained maximization will partly depend on the disposition of our agent. This counterargument stresses that Argument 1 suffers with presumption of

probabilistic independence (McClennen, 1988, p. 100). In other words, the agent in Argument 1 assumes that he is capable of identifying the dispositions of the other agents, and he would cooperate if detects another CM. Taking this thoughts into account, David Gauthier (1986) suggest the second argument:

*Argument (2):* Suppose I adopt straightforward maximization. Then I must expect others to employ maximizing individual strategies in interacting with me; so do I, and expect a utility,  $u$ .

Suppose I adopt constrained maximization. Then if others are conditionally disposed to constrained maximization, I may expect them to base their actions on a cooperative joint strategy in interacting with me; so do I, and expect a utility,  $u'$ . If they are not so disposed, I employ a maximizing strategy and expect  $u$  as before. If the probability that others are disposed to constrained maximization is  $p$ , then my overall expected utility is  $[pu' + (1 - p)u]$ .

Since  $u'$  is greater than  $u$ ,  $pu' + (1 - p)u$  is greater than  $u$  for any value of  $p$  other than 0. . . . Therefore, to maximize my overall expectation of utility, I should adopt constrained maximization. (p. 172)

Argument 2 takes into account the how an agent—who is a CM—can be expected to behave depending on his judgment of the disposition of another agent. However, Gauthier does not consider the implication of uncertainty in Argument 2 which may lead to miscalculation of expected utilities. In a case when there is uncertainty about the actual dispositions of the other agents, the agent in his interactions will not always be able to determine the dispositions of others. Since the agents are not capable of identifying the dispositions of others, it would have been much better to attach the probability of the type of

dispositions (McClennen, 1988, p. 101). These probabilities will reduce the expected utilities even more. For instance, a CM has uncertainties about the true type of other agent he confronts, that is he cannot be sure whether the other agent is a CM or an SM. In such a situation, the agent should be aware of the probability of facing an SM that tries to deceive by appearing a CM. Consequently, we would have an expected utility of  $u^*$ , which is less than  $u$  due to being deceived. In fact, the expected utility of  $u^*$  needs to go into the calculations instead of the  $u$ . However, Gauthier does not intend to involve the issue of uncertainty in the argument at this stage but, instead, he introduces the conceptions of *transparency* and *translucency* to offer a mechanism for solving the problem of uncertainty.

If there is condition of perfect information regarding the dispositions of the other agents with whom our agent interacts, then Argument 2 is surely a strong one. Given the condition of perfect information, any CM will be able to achieve the benefits of cooperation with other CMs, and will do as good against an SM with a defection as would any other SM do. Hence, this situation would shift the dominant strategy from defection to cooperation. Moreover, Gauthier observes that the argument gives an adequate consideration how other agents will interact with our agent based on the disposition of his choice. Edward McClennen (1988) argues that this opens a door of opportunity for deceit and, simply, creates the possibility of others making a mistake (McClennen, 1988, p. 101). Gauthier's response to this criticism would be that if we take our agents to be *transparent*, then each and every agent will be directly informed about the disposition of another agent. Gauthier believes that it would be impossible to exploit the CMs (Gauthier, 1986, pp. 173–174). We have to note that Edward McClennen (1988) attempts to challenge practical feasibility whereas Gauthier leads his discussion based on normative arguments. When there is transparency, the agents will have utility maximizing motives to adopt the disposition of constrained maximization because it would result in greatest possible amount of utility. Even if he diagnoses that there are many

agents adopting the SM disposition but he is also able to identify them when he confronts them, then he will adopt the disposition of constrained maximization. Moreover, he will be eager to adopt the disposition of constrained maximization because other CMs would also like to cooperate with him as soon as they determine that he is a CM. Therefore, having adopted the constrained maximization as one's disposition costs nothing and allows him to enjoy the benefits of mutual cooperation (Gauthier, 1986, pp. 172-174; McClennen, 1988, p. 100–102). In other words, if a CM receives as much utility as an SM in an interaction with another SM, then a CM does much better with another CM with mutual cooperation.

Gauthier acknowledges that the presumption of transparency takes away the appeal of his argument because transparency does not portray the real world. For this reason, he incorporates an assumption with milder deviation from real world – “translucency”. The assumption of translucency dictates that the agents can identify the dispositions of other agents at a reasonably high ratio (Gauthier, 1986, pp. 174-177). It may still be rational to choose to be a CM, when agents are translucent to each other. At least, probabilistic knowledge can be established about the disposition of other agents with whom the agent may interact. However, an agent choosing to be a CM faces the real challenges of being taken advantage of by SMs which present themselves as CMs. Those agents adopting a deceitful disposition can benefit from the situation due to the limited capacity of the CMs to identify the SMs (Friend, 2001). Therefore, the agents—thinking of adopting the disposition of CM—need to consider a trade-off between expected gains and losses. The expected gains are derived from being able to cooperate with other CMs and, conversely, the expected losses are spent on SMs that took advantage of deceived CMs. Consequently, the decision to adopt constrained maximization depends on (1) the ratio of deceptive SMs and CMs, (2) the relative frequency of encounters with both of the types of maximizers for the agent, (3) the capabilities of correctly identifying the type of any maximizer, (4) payoffs gained in interactions with either

type, and (5) the potentials of effectively acting as a deceptive SM (McClennen, 1988, p. 103). These concerns limit Gauthier's cooperative policy of constrained maximization.

Geoffrey Sayre-McCord (1989) contends that other policies may even perform better than the constrained maximization from utility maximizing point of view despite the potential success of a CM policy under the condition of relative translucency as compared to a SM policy. He considers the "trans-opaque" policy to be a better performing policy, which suggests sending out all kinds of misleading signals with an aim of convincing the other agent that one is a CM, while in reality being an SM. In such a scenario, semblance may become the best response instead of the real cooperation. Obviously, the actual cooperation will never take place if everyone starts reckoning with this line of thought. As a result, free-riding and sophisticated forms of hypocrisy will prevail instead of emergence of cooperation among the actors. In fact, the trans-opaque policy will continuously face the same dilemma without being able to escape from it. Everyone will do poorly unless they would have simply chosen to be a CM.

Despite the existence of the problem of choice under the condition of translucency, Gauthier (1986) at least successfully proved that from the expected utility point of view the best policy for an agent to adopt—under the condition of transparency—is the disposition of constrained maximization. By this point already, even those who hold more traditional views of individual utility maximization would agree with the assertion that the cooperating CMs will be able to secure rewards that are not available to those pursuing an SM policy.

Gauthier (1986) has clearly shown whether self-interested agents will *want* to dispose themselves cooperatively and, consequently, comply with any necessary constraints. Moreover, the voluntary compliance—reached by reason—would be a more market-friendly approach than the Hobbesian solution of setting a sovereign because it operates like an invisible hand preventing market failures (Gauthier, pp. 152, 163). In this respect, Edward

McClennen (1988) tries to answer a related but also distinct question of whether they *can* actually cooperate. He invites us to examine the Prisoner's Dilemma game where no any sort of enforcement or precommitment mechanisms exist and agents have to choose their actions simultaneously. He challenges the prospect when an agent may decide *ex ante* that the expected utility returned from choosing to be a CM would be greater than the expected utility from being an SM,<sup>2</sup> but fails to implement the disposition of constrained maximization. When a potential CM has to take an action in an *ex post* interaction with another agent, he will find that the rational choice is to behave like an SM and defect. In other words, McClennen (1988) argues that Gauthier captured the reasoning in *ex ante* decisions but he did not provide sufficient explanation of how the agent can *ex post* implement the adopted policy.

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2 Given that there are other CMs in the environment to interact with.



### **Applying The Compliance Theory to International Relations**

As it has been shown in the previous section, the conventional rationality would suggest an agent to take the best response at each encounter in time. While in an attempt to maximize his payoff, this approach would not lead to better outcomes when viewed from the viewpoint of his entire lifetime. This is exactly what Edward McClennen (1988) tried to point out; classical economic rationality is not capable of taking into account the long view of decision making with socially optimal outcomes at the end. The conventional reasoning is what also in the basis of the New Realist recommendations for the choice of actions. It is suggested not to comply with international norms if there is a possibility of individual utility maximization by defecting. A typical realist agent will only cooperate as long as it serves to his individual interests. However, he will defect and give in to the temptation of obtaining higher payoff like an SM would do in PD like situations. Intuitively, one may see how it can be applied to international relations. Instead of having persons as our rational actors, we need to think of states as the actors who need to make choices in international anarchy. If we judge cases of cooperation in international relations from the New Realist perspective, then it would appear puzzling—maybe also naïve—to see some states cooperating in the world of egoists. However, this is only the first impression of seeing others to comply with their commitments but there is much depth to the compliance problem.

It was shown that the compliance with norms in general can be grounded by the rational pursuit of utility maximization. We argue that it would be rational for states to adopt and comply with a cooperative policy. To apply this hypothesis to international relations in a systematic and critically weighted way, we will need to discuss the necessary assumptions for our argument.

*If each of these assumptions are satisfied*

- A*<sub>1</sub> States are confronted in situations with payoff structure resembling the Prisoner's Dilemma game,
- A*<sub>2</sub> Individual utility maximizing states can be sufficiently recognized,
- A*<sub>3</sub> Individual utility maximizing states will be effectively excluded from the cooperative regimes,

*Then,* It would be rational for states to resist the temptation of individual utility maximization by means of adopting a cooperative policy and practicing a compliant behavior.

Assumption 1 entails that states have an incentive to cooperate—or to follow through with their commitments—because their payoffs become better *overall*. This incentive explains why a self-interested state would want to cooperate. Assumption 2 expects that there will be availability of the necessary information to be able to decide the true dispositions of other states fairly good. The necessary information is satisfied if states are translucent in David Gauthier's terms. In international relations, a state can signal of its disposition of constrained maximization by committing itself to international conventions and treaties or, even less formally, assuring to follow established customary rules. Moreover, it would be possible to screen information regarding the true disposition of a state from its participation in international organizations, forums, and other types of institutions requiring a delegation or representative. In fact, one of the reasons explaining why states choose to join international institutions is that they want to decrease the uncertainty about others as well as themselves. However, we do not exclude the possibility of being mistaken or bluffed because states have an incentive to appear constrained maximizer while, in reality, they are straightforward

maximizer. Some straightforward maximizing states will want to take an advantage of constrained maximizers. In response to this argument, we would argue that the states with malicious intention will eventually get discovered and punished with the action suggested in Assumption 3. Moreover, states can also observe the experience of one state with another one to reveal the exploitative states. Assumption 1 alone does not provide enough reasons for states to choose to constrain their maximizing behavior. For this reason, Assumption 3 suggests that if a state does not intend to constrain its maximization, then it will be *excluded* from cooperative regimes, which is not to one's advantage. The cooperative states adopt a disposition of constrained maximization and behave compliantly in times of temptation for a unilateral deviation to reap a greater benefit.

To elaborate why would states constrain their maximization, we will discuss how the emergence of cooperation is seen from the perspective of a state to decide his disposition. Let us start with a world where all states act on their best individual strategies, that is all of them pursue straightforward maximization out of self-interest (like in State of Nature). Then a few states realize that it is possible to attain socially optimal outcomes with collective action, which requires them to constrain their maximization. They will need to forego on opportunistic situations, which are tempting because of seemingly greater payoff at the moment in time. These tempting payoffs do not constitute part of their original plan – leading to overall better life. Our state will also want to receive higher payoffs available to cooperators (Assumption 1). However, our state will not be able to join these cooperative states as long as it remains a straightforward maximizer (Assumption 3). The states bearing the burden of cooperation will not want to have free-riders among them because it will decrease their cooperative payoffs. As the CM states will be able to sufficiently recognize the SM states (Assumption 2), the CM states will want to prevent any SM state to benefit from their collective goods (Assumption 3). The CM states will respond to the SM states with a

defection, so that no one will be able to benefit without taking some of the burden of collective action. Our state—seeing the collective good available to cooperators and having the “fear” of getting excluded from such a beneficial arrangements—will adopt the disposition of constrained maximization. After adopting the disposition of constrained maximization, our state at the time of interactions with other CM states will be treated with cooperative behavior and be expected to cooperate.

Currently, we may think of that our state appeared in an advantageous situation, that is the other states will cooperate with us and our state may decide whether to cooperate with them. One has fallen into the conceptual trap described by McClennen (1988) if he thinks that our states can receive the benefits of cooperation with his unilateral defection without bearing his part of the burden of the collective action. The response that our state should fear that others will retaliate at later interactions with us is the “shadow of future” argument, which may partly answer why we should still comply with our commitment when there is opportunity window. Firstly, this argument of being punished by the other state at the later interactions expects, and will apply to only, situations like *repeated Prisoner’s Dilemma* game. However, the reason for our state to follow through at the time of interaction is grounded on the large-scale rational plan to cooperate. The rational plan, may also be called a strategy, is currently to comply to reach the mutually cooperative outcomes. McClennen (1988) named this strategy, that takes to the optimal solution of the problem, resolute choice. Our state does not need to reevaluate his payoffs at the exact time of taking action, otherwise it will lead to a paradoxical situation – an expectation of greater payoff but actually receiving lesser.

At this point already, we have applied the theory of cooperation and compliance at the level of international relations. However, we also need to evaluate whether nation-states and persons are comparable agents. We will discuss main objections to see whether there is

differences in the structures at global and individual levels. Firstly, it may be argued that states have varying sizes and capacities whereas persons are roughly equally in the state of nature. Our response to this objection would be that there are factors in our age that equalize the state capacities, and the bigger states can have fears while dealing with smaller states. The first factor is nuclear weapons. If a state starts developing nuclear weapons, then it gets the chance of practicing unlimited bargaining power regardless of its size because a nuclear bomb can have fatal consequences. Countries like North Korea and Pakistan can practice great bargaining power through deterrence, or threats (a matter of interpretation), at the negotiation table just because they possess nuclear weapons. This fact may bring relatively smaller states to equal terms with greater powers in certain situations. The second factor is terrorism. In fact, some states can keep others—including the great powers—in fear with terrorist attacks. These states once were thought to be incapable to harm greater powers. Afghanistan is a good example in this respect. The final factor is cyberwarfare. If the sizes of resources, territory, military arsenal and economy matter for the conventional war, then in cyberspace all of the entities are equal regardless of their size. The scales and number of techniques of cyber attacks keep increasing. IT leverage also grows and covers a number of new spheres. For instance, it would even include as sensible spheres as the electoral systems in the US – a harm to which will have negative effects on democratic institutions. These trends open an opportunity door for adversely disposed small states to counteract any greater power from the standpoint of an equal. In other words, the argument of the varying sizes of military and economic capacities will eventually become more distorted and less important by the global trends and development of technology.

The second objection, which we are going to discuss, uses the opposite reasoning. Rather than simply arguing that persons and nation-states are all the same, it suggests that they are different and nation-states are better in long-term planning (large-scale rationality)

and following through than the individuals. Think about an individual who needs to decide at  $t+1$  time whether to comply to his commitment. The self of the individual at  $t+1$  time is the same as it was at the time  $t$  when he committed himself to constrained maximization. It is not a different person. However, a state—engaged in long-term cooperation—may receive benefits in the first year and bear the burden in the following year. It may happen so that the composition and members of the state change during that period. This demographic changes take place due to migration, birth and death. In contrast to the individual who preserves his identity over the time, the individuals within the state who once benefited from cooperation may differ from the individuals who get to bear the burden of the same cooperation at a later time. As a result, our theory of compliance confronts a challenge of distribution of rewards and burdens in time. Among other responses to this theoretical objection scholars believe that states are more than just being “a *mere* aggregation of individuals” (Ohlin, 2015, p. 150). The people of one state are unified with a common purpose. They share aims in certain areas of life and, to that end, they cooperate and share both the rewards, and the burdens of their commitment to their collective. A nation-state may be viewed as a collective agent with its aims in foreign affairs. For instance, the military of the state is responsible for carrying out wars for the defense against its adversaries. The ministry of foreign affairs is responsible for the diplomatic relation with foreign states. Many other external interactions take place at different levels of governing agencies of the state. The collective delegates the power to individuals holding these position for the purpose of speaking for and on behalf of the collective. For instance, at summit meeting head of the states do not engage in personal discussion but represent their people. The national unity of aims is crucial for the appropriate handling of foreign affairs. It is not a simple aggregation of actions and interests of individuals (Ohlin, 2015, pp. 148–150). In other terms, a state is a collective agent that acts with unity of aims.

There are two objections challenging the argument of continuous national unity. The first objection to our argument could be why people would adopt the disposition of constrained maximization for their state if they live finite shorter lifespans as compared to their state, which can exist over decades if not indefinitely. Even though some people might pass away and others come to existence, the state preserves its unified existence over time. If continuity of unity were rejected, then international relations wouldn't be possible. For instance, the United Kingdom continues to exist over centuries regardless of the fact that its constituents have apparently a finite shorter lifespan to live. We need to understand whether it is rational for states to continue complying with their commitments as a CM would do, when the benefits from the collective action were already accrued. If nations long-term plan will make states' lives become better overall, then it is justified to comply with their commitments and carrying out remaining burdens based on large-scale rationality reasoning. The second objection questions a potential distributional shortcoming that may arise internally among the individuals living at the same time. It may happen so that one part of the nation will need to bear the burdens and the other part of the nation will enjoy the benefits. Therefore, it may be inferred that it is not only about making the life of nation go better overall. The state also needs to be morally sensitive to the distributional issues and address them when they arise.

Military service would be a typical example that can be used to elaborate both objections. A state might continue bearing the burden of financing the Army in times of peace when there is now an apparent need for defense from adversaries. However, the state may want to retain its Army because they believe it will make the life of nation better overall by guaranteeing security now and in the future. Though this is a rational justification for preserving the Army, it creates the problem of disproportionate distribution of benefits and burdens. The part of the nation bearing the burdens of the Army is the military personnel and, in contrast to them, others in the nation enjoy the benefits – peace and security. In such situations, a redistribution of

goods is necessary in order to compensate the part of nation bearing the burdens. In fact, internal issues of distributions can be addressed with some redistributive mechanism. For instance, the military personnel could be entitled to a higher retirement pension than what civilians receive. Hence, it can be responded that states should not be limited to pursue their plans of improving the life of nation overall because the internal distributional issues can be addressed.

In other words, it would be rational for states to resist the temptation of individual utility maximization as long as certain assumptions hold true for international relations. After the systematic analysis of dealings of states through the prism of assumptions, all of them proved to be consistent in international realm. Besides showing that there is sufficient condition for our hypothesis of compliance to be applicable in international relations, we also evaluated and responded to the main objections challenging our hypothesis for compliance in international relations. The critical evaluation has shown that our hypothesis resists the raised criticisms.



### **Conclusion**

It would be quite reasonable to conclude this essay with following claims and observations. The international anarchy portrayed here resembles the Hobbesian state of nature. Persons in the state of nature, empowered with unlimited right of nature, will engage in deadly rivalry. They will need to give up some part of their right, or constrain their maximization, for the sake of their preservation. However, this enterprise of complying to certain constraints on maximization will suffer the same problems as every other collective action does. The problem of free-riders is the most eminent, as there is no global authority to monitor and punish non-compliant states. Even though the states will have an interest to take collective actions to achieve socially optimal outcomes, some states will be hostaged by the temptation of receiving the benefits but not bearing the burdens of the collective action.

The solutions for provisioning the common goods by means of setting world government or privatization will not work. The first solution is costly and will make the outcomes inefficient. The latter one is not applicable to international relations because the common goods like peace is not possible to privatize. The non-compliant states ground their defection during the burden sharing based on a hyper-rational utility maximizing reason. They believe that it is rationally justified to take the benefits but not bear the burdens in order to make their outcomes even greater than what they would have had if followed through their commitments.

In contrast to these dishonest types of states, there are other states that choose to comply with international norms. We succeeded in providing rational grounds on which a state might choose the disposition of constrained maximization. Our argumentation is based on rational choice theory to ground a contractarian theory of compliance. Our proposed hypothesis of compliance is derived from the theories of compliance for individuals. An attempt was made to bring the established wisdom in political theory to international

relations. If the hypothesis was successfully applied at a higher level – on states, then we can provide answer to a puzzling phenomenon in international relations. It will no more appear paradoxical to see states complying with international norms and cooperating on the matters of collective action when the conventional rationality would suggest the opposite.

An observation in this research indicates that the classical economic rationality will captivate with the desire to defect to individually maximize one's utility. However, it was shown that it is only conceptual trap and one would reason in this manner if starts assessing the outcomes at each moment in time like a straightforward maximizer. Instead, one needs to judge his interactions in a larger sets with a view of an interaction as a part of long-term plan. Individuals, and the states likewise, are planning agencies rather than merely utility maximizers.

We also respond the main objection challenging our hypothesis. The first objection is based on the fact of state's changing membership. It questions whether the original intentions of the state might change as its population undergoes demographic changes. In an attempt to answer to this issue, we came to the conclusion that states preserve national continuity and, therefore, the state can follow through its commitments even if its composition changes. Another objection that we addressed was that states possess varying sizes of military, economic and political capacities which may to a great extent affect the potential outcomes of the wars and their bargaining power at the negotiations. We respond to this challenge by the claim that global trends like terrorism and technological development like cyberwarfare will equalize the powers of small states and great powers.

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