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Losing Control: The Norm of Occupation in Eastern Europe during World War I
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Eastern Europe’s First World War

Edited by Jochen Böhler, Włodzimierz Borodziej and Joachim von Puttkamer

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Jonathan E. Gumz
Losing Control:
The Norm of Occupation in Eastern Europe during the First World War

How does an occupier control an occupied country? In many accounts of occupations, control emanates from the interplay between the occupiers’ policies and the population’s accommodation or resistance to such policies. This immediately leads to a series of questions that guide research on occupation. What were the government’s plans for a particular occupied territory? How did interest groups from the occupying country compete for resources in the occupied country? What were the views of those administering the occupation? As always, those who are supposed to be controlled play a role in this equation. What, if any, forms of resistance were open to the occupied? What motivated resistance? The quick equivalence made between an occupied country and a conquered country helps shape these questions. The occupying state can do what it pleases with the conquered country. Restraints are usually generated internally among the occupiers as well as from within the occupied territory. When handled in this way, occupation loses its dimension as an international norm. The absence of this dimension derives from the experience of the Second World War, when occupation as an international norm was shattered and its international elements declared irrelevant. But what if we wind the clock back to before the Second World War? For historians of World War I, this requires that we proceed forward from the assumptions of 1914, not backward from the assumptions of 1945. Then the importance of the international norm of occupation increases. That norm is impossible to understand without recognizing the degree to which it was linked to the maintenance of state sovereignty in Europe and the containment of war. Occupation sought to maintain the theoretical sovereignty of a defeated state. War containment in the nineteenth century was predicated on the clean divide between civilian and military spheres in war. If sovereignty was called into question, occupation, and with it war containment, also came under pressure, leading to violence on the ground. Occupation as devised in the late nineteenth century applied to Europe alone and much of the colonial world was excluded. If we view occupation as an international norm with a precise meaning in the pre-1914 world, we can place its transformation during the First World War in perspective. Given occupation’s close connection to the world
of pre-1914 European sovereign states, it comes as no surprise that its unraveling in Europe began precisely where state sovereignty experienced its greatest crisis during the war. That place was Eastern Europe.

But in order to understand the transformation of occupation, it does not suffice to recognize how abstract concepts might be linked and plot where those concepts collapsed. The collapse of occupation as a norm in Eastern Europe was a dynamic process subject to a range of contingencies that arose in the early years of the war and was intimately related to the crises experienced by the oldest imperial sovereignties in the war: the Habsburg Empire and tsarist Russia. It was this wartime crisis of imperial sovereignty in 1914 and 1915 that paved the way for the fall of occupation across Eastern Europe. It called fundamental assumptions with regard to occupation in the pre-1914 world into question. This process accelerated after 1917 with the progressive and massive implosion of imperial Russian sovereignty. It did not unfold in the same way everywhere, and there were exceptions to the rule. Nonetheless, I believe that focusing on the broader process allows us to better situate occupation during the First World War within the history of occupation in the twentieth century.

In this short article I would like to develop the outlines of a broader argument regarding the transformation of occupation and the expansion of violence during the First World War. First, in order to understand the dynamics at play in violence in the context of occupation we have to properly situate occupation as an international norm specific to the world of the late nineteenth and early twentieth centuries. That norm should not be slotted into a broader history of human rights as has often been done with attempts to regulate war after the Franco-Prussian War. Rather, occupation should be connected to classic nineteenth-century norms such as sovereignty and war containment. It is helpful to think of these attempts to regulate war as expressions of norms as opposed to hard and fast laws. Too often, arguments regarding the ‘breaking of international law’ devolve into a laundry list of violations and remarks about the disregard for international law. Yet norms are far more robust than laws, and violations of norms do not render norms irrelevant. It is only when the norm appears to disappear completely and is not even referenced, that we witness a definitive break with it. Second, occupation became a fragile norm in Eastern Europe over the course of the war. The origins of that fragility lay in the initial violence of the war. The first year of the war in the East called the sovereignties of imperial Russia and the Habsburg Empire into question. This process was rooted in the empires themselves, but also in the contingent events of the war in these empires, and the policies devised for the occupied territories. The close links between sovereignty, war containment, and occupation meant that the faltering of one of these norms called the others into question. By the end of the war the nineteenth-century norm of occupation in Eastern Europe had been eroded. In turn, violence in the occupied territories became increasingly uncontained. Germany found itself an actor in this process and was overtaken by it, even though it had avoided the crisis of sovereignty that struck the Habsburg Empire and imperial Russia. Leaving its expansive war aims to one side, until at least late 1916, Germany generally tried to stay within the boundaries of the Hague Conventions in places such as occupied Poland and Belgium. But gradually this approach was abandoned in favor of a new type of transformative occupation, which was often styled as an intervention. In such interventions, the German military, itself in a state of partial dissolution, became less capable of controlling violence, becoming a mere player in the violence in the occupied territory. The turn from the norm of occupation by 1918 signaled a complete reversal of the German stance at pre-war international legal conferences in defense of war containment and in favor of occupation.

**Occupation as a norm on the eve of war**

If we view occupation as a norm that assumed a particular form over the course of the late nineteenth and early twentieth centuries, our gaze is inevitably drawn to the international legal conferences in the 30 years following the Franco-Prussian War. These conferences sought to establish a norm of occupation that was commensurate with the standards of European conflict in the late nineteenth century. Such a norm ran the gauntlet of professional military interests and those of the emerging profession of international law. It was clear that the norm of occupation would be invoked in any conflict that involved one or more of the Great Powers. Before World War I, imperial Russia was at pains to show, for example, that it adhered to the norm of occupation in the Russo-Turkish War.1 As with all norms, this norm did not require absolute adherence in order to remain relevant. As studies in political science have shown, states transgress norms, but the power of a norm can be such that they

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feel compelled to portray themselves as acting in accordance with that norm. Thus, a norm can be reinforced even when it is violated in practice.2

What were the specific features of the norm of occupation? One line of argument places it within a narrative of the progressive humanization of war. Such an argument emphasizes the Martens clause, which declared that elements of war and occupation not directly addressed by the Hague Conventions remained under the dictates of the "principles of humanity and the civilized conscience." But as Antonio Cassese argues, the importance now attached to the Martens clause does not reflect the importance attributed to it at the Hague Conference of 1899. At that time it was considered – even by its author – a clever diplomatic trick to keep the conference from collapsing into disagreement.3 If we avoid a Whiggish perspective on law and occupation, we see just how much sovereignty and war containment shaped the norm of occupation in the late nineteenth century. Occupation sought to protect European state sovereignty by treating the occupying power as a 'trustee' for the departed sovereign government. The Brussels Declaration of 1874 used the term "usufructuary" to describe the occupier. The Hague Convention of 1900 determined that the occupier was bound to respect existing laws insofar as they did not interfere with "military necessity" and was to avoid transforming the country it occupied. Local officials were to remain in their posts and obey the occupying authorities to ensure as little disruption as possible in the lives of the occupied.4 Armies could requisition supplies and continue to collect taxes in occupied countries in order to support the occupying forces. The norm of occupation attempted to reinforce the sovereignty of the occupied country and assumed that the lower levels of bureaucracy would continue to function in occupied countries. This meant that defeated countries had an incentive to accept defeat and hope for a more amenable deal at the peace table instead of choosing to continue what might be an ever more destructive conflict.

Those who resisted an established occupation did not receive the protection of belligerent status and attempts to explicitly recognize resistance to occupation were rejected at the Hague Conference of 1899.5 Although delegates such as Fedor Martens realized that such uprisings might well occur and even considered them noble undertakings, they also recognized that such uprisings ran extreme risks and would probably be crushed by occupying armies. Yet, in line with the moderate liberalism of many international lawyers, such a defeat was seen as part of a nation's progressive development. This did not mean that resistance was legalized, however. German, Austro-Hungarian, and Russian military delegates resolutely opposed the legalization of resistance to occupation and warned that such legalization could escalate violence. These arguments followed the nineteenth-century tradition of contained conflict and clear distinctions between soldiers and civilians. A careful reading of the Hague discussions reveals that if any country at the conference wanted to depart from contained war in Europe, it was Belgium, not Germany. Certainly, within the German army, as Isabel Hull has argued, some believed war could no longer be contained by norms and was simply the playing out of un-restrained force.6 But it was the Belgian delegate who rued the fact that the Hague Conventions separated civilians from conflict and de-legitimized patriotic resistance against an established occupation.7 The question of when an occupation actually began or was made 'effective' further underscored a general consensus regarding the problem of legalizing resistance to occupation. The reason why some countries wanted the moment of effective occupation pushed back as far as possible was that this allowed them to challenge an enemy farther into an invasion. In order to quickly extend their control over a territory, others wanted effective occupation to be relatively easy to achieve. This entire disagreement, however, revealed a much broader consensus as to the inadvisability of resistance to occupation and the importance of containing war in Europe. Both sides recognized that once an occupation was in force, resistance had to end.

Seen from this perspective, occupation, in particular the way in which it both limited and allowed for violence, can also be understood as the product

References:
5 This was the clear implication of explicitly granting belligerent status to civilians who rose up to defend their country against invasion but behaved in accordance with the laws and customs of war enshrined in article 2 of the 1899 Hague Convention. See Article 1, Chapter 1, Article 2, Annex to the Convention (II) with Respect to the Laws and Customs of War on Land, The Hague, 29 July 1899, at: http://www.icrc.org/ihl.nsf/FULL/150OpenDocument, (last accessed on 4.9.2013).
of complex negotiations between two emerging professions in the late nineteenth century: the professional officer corps and the international legal profession.\(^8\) War was the territory on which these professions staked their claims. Like many professional debates, this discussion strove to achieve workable solutions to the situations the contending professions were trying to regulate. The most explosive theme in the discussion was violence against civilians in war and occupation as well as the officer corps' concern that conscript armies might find themselves exposed to civilians who attacked soldiers with impunity. In this respect, it should come as no surprise that representatives of the German officer corps, whose Prussian element had developed the model of officer professionalization, took the most aggressive stance in these negotiations. The solution to this professional face-off between the military and the international legal professions in the European context was a norm of occupation that limited violence and blocked the transformation of the sovereign state temporarily defeated in war.\(^9\)

**From the crises of 1914 and 1915 to the demise of the norm of occupation**

This norm of occupation came under pressure from the very beginning of the war. That pressure resulted from the gradual loosening of control over violence in occupied territories and the moments prior to established occupations, when the rules governing belligerency were hazy at best. Furthermore, the fragility of the Habsburg and Russian armies led to a series of practices that undermined the distinction between soldier and civilian. Yet, for the Habsburg army and, to a lesser extent, the Russian army, the initial violence of this period, on their own territory and on the territories they occupied, was the violence of pre-1914 armies. That is to say, both armies sought to police the borders of violence in war and to resolutely suppress what they viewed as the unjustified interference of civilians in war or their subversion in occupation. Yet this policing was quite violent. It was often infused with fears of 'subversive' ethnic and religious groups and it began to unshackle various sovereign claims in these regions.


The Habsburg and Russian armies were fragile forces when the war began. They were conscript armies managed by small professional officer corps. As with all professional officer corps, they asserted their dominance over the sphere of war based on claims to expert knowledge, but their armies were filled with conscripts, in which they had little confidence.\(^10\) The Habsburg army had not fought for 40 years and the Russian army's performance in the Russo-Japanese war raised troubling questions about the army's reliability. There were perpetual doubts within the officer corps as to whether these armies would actually function in the event of war. Contrary to the image of a rush to arms in 1914, the mobilization efforts of the Russian army were plagued by resistance in the countryside. This resistance was fueled by concerns about the fairness of conscription and the abundant alcohol that flowed before conscripts departed for their mobilization depots.\(^11\) By mid-1915, the Russian army lacked officers to control the huge influx of territorial recruits (opolcheniye), who had been called up to replace the losses of the previous ten months.\(^12\) As late as mid-1917, the Habsburg Army High Command (Armeeoberkommando, AOK) was concerned that the officer corps could not control the soldiers without the authorization to tie them up in public as punishment for infractions of military regulations. Such concerns about the reliability of the mass of soldiers, however, did not lead to curtailments of the armies' operational goals. The armies were faced with a punishing set of tasks in 1914. For example, in August 1914 the Habsburg Fifth Army was directed to attack eastwards into Serbia, traversing deep river gorges and mountainous terrain in sweltering heat with inadequate equipment. The soldiers could not cope in such conditions. When the Fifth Army encountered a partially uniformed Serb Third Levy, panic broke out not only among the soldiers, but also among the officers. Conscripts who had been pushed beyond their limits believed that civilians were participating in combat and, encouraged by their officers, they lashed out violently. The Habsburg army was primed to police the boundaries between soldiers and civilians. As early as July 1914 the army reached the conclusion that Serb guerrillas – or Komitadjis, as the army frequently called them – were “outside international law.” They were to be “completely


wiped out."¹³ The army also availed itself of a wide-ranging and fearsome military legal arsenal in order to handle perceived transgressions of this boundary. But even this was, at times, not enough. Thus, when the Habsburg army invaded Serbia in late August, it went on a fear-induced rampage through northwestern Serbia in particular, killing 3,000 civilians, convinced that the Serb army and state had deliberately enlisted civilians to fight against the invading Habsburg army. Habsburg officers repeatedly stressed that the Serb state and army were intentionally violating international law. The commander of the Fifth Army, General Liborius Frank, declared that "the brutal, deceitful actions of the Serb military and Serb population against our troops [...] violated every norm of war and all laws of humanity."¹⁴

In addition to fears about civilian participation in war, the Habsburg and Russian armies faced a series of almost unmitigating military disasters in the first year of the war. Such disasters lead us into the realm of classic military history, but before we immediately discount it, we would do well to remember the size and scale of the losses involved. Both armies suffered setbacks so severe over the course of this year that they could not but call the state's sovereign claims into question. In this respect, the Habsburg and Russian armies went through a far longer period of sustained heavy casualties than the armies on the Western front, whose war of movement had ended by late fall 1914. The Habsburg army's own history claims that the army was a "militia" army by late 1914.¹⁵ Both armies lost many experienced line officers and non-commissioned officers, resulting in critical shortages of leaders at the front. With Italy's entry into the war in May 1915, the Habsburg army faced a three-front war. If we take the Battle of Gorlice-Tarnów and the Great Retreat together, the Russian army suffered over one million casualties in a little over four months.¹⁶ This level of loss in such a concentrated period of time was astounding. Moreover, one can only imagine what it must have been like to live in areas that witnessed 800,000 casualties in a period of a couple months in the Carpathian winter campaign of early 1915.¹⁷ The defeats suffered in these areas were experienced on the ground as shocks. In Galicia, for example, a


Jewish supporter of the Habsburg Monarchy asserted that "with the appearance of the Cossacks, the aura of invincibility, which the army as a supranational force and the monarchy as a whole had for many Galician Jews was lost, and with it the belief in the Monarchy as a whole."¹⁸

Such defeats did not dampen efforts by the Habsburg and Russian armies to assert their control over areas such as Galicia, Bosnia-Herzegovina, and Poland. Attempts by both armies to control these areas had the potential to further destabilize them and the empires that ruled them. Military techniques used to assert control in areas near the front bled over into occupation practices in Galicia and Serbia. The Habsburg army relied heavily on military law to deal with the slightest civilian disturbance near frontline areas, and, increasingly, at home. In a highly retributive military legal system, the rear was to be brought into line with the war and kept in a subordinate position vis-à-vis the army. Of course, this was highly problematic, as the task of policing civilian society in areas near the front quickly overstretched the capacities of the Habsburg military legal system. An uncertain army now waded into the highly contentious waters of denunciation, further undermining the broader claims of the Habsburg state to legal impartiality. Moreover, the army emasculated the Habsburg state administration in this process, creating the perception that it was no longer capable of representing the state's longstanding claims to impartiality and equal justice. This process reached its institutional climax in late March 1915 after the fall of Przemysł with war against Italy looming. At this point, the army was able to secure a summary form of martial law (Standrecht) for all army operational zones, which now covered about a third of the empire, thereby eliminating an emergency system of justice where the death penalty was the only possible sentence for the accused. The imposition of military law also extended to occupied territories, undermining the claims by the Habsburg army that it was operating within the norm of occupation in places such as army-occupied Serbia. The civilian population there was exposed to the full force of Habsburg military law and Standrecht. This practice was unheard of. No one at the Brussels or Hague conferences had ever envisioned that an entire occupied population would be subjected to military law in such a routine manner. Moreover, in debates on Habsburg military law prior to the war, army lawyers had argued that military law could not approximate civilian law because of the need for discipline within a military organization. Against that background, the enforcement of military law in wartime Serbia appears even more out of bounds. In practice, this meant that

Serbian civilians could be tried for lese-majesty (Majestätsbeleidigung) under martial law and executed for such offenses, as in Sabac in 1916.19

The Russian army felt similarly uncertain, although in this case uncertainty was even more closely connected to ideas about ethnic unreliability in the borders of the empire. As in the Habsburg Empire, these ideas of unreliability bled into army-run occupations. Like the Habsburg army, the Russian army was able to secure wide-ranging powers in areas near the front. It targeted Jews and Germans near the border and in occupied areas as groups that allegedly supported widespread spying and undermined military operations. The same sense of vulnerability that lay behind this search for traitors also led the army to exceed the limits of occupation law when it came to coercive measures in occupied areas.20 For the Russian army, assessments of the reliability of ethnic groups had been part and parcel of universal conscription since its introduction in the 1870s.21 When it came to the war, however, these notions of ethnic reliability introduced more disorder in the regions where the Russian army fought and, in turn, made the war even more difficult to control. Army commanders such as Nikolai Ianushkevich were deeply anti-Semitic and described as "obsessed with the idea of spies and spying" by suspect groups.22 The norm of occupation made wide-ranging concessions for military necessity, and for the Russian army, that military necessity demanded heightened surveillance and targeting of Jewish communities. These practices had a long history in Russian colonial military practice, but they were also common in situations where a Russian army unit believed it had been betrayed or even fired upon by local civilians.23 Yet it was equally clear that the targeting of suspect ethnic and religious communities operated at the edge of the norm of occupation, moving into the realm of those colonial practices of military control that the norm of occupation eschewed. On the ground, they certainly did little to contain violence and actually encouraged it. In the context of the Great Retreat in 1915, there was extensive hostage-taking of Jews in areas such as occupied Galicia, as well as Russia proper. As the army careened out of control, motives other than security began to play a role in the treatment of Jews. Robbery and plundering featured increasingly in army attacks on Jewish communities. A policy designed to secure the Russian army's control of occupied areas and areas near the front actually destabilized these areas, making them harder to control and weakening Russian claims to sovereignty there. Moreover, the charges of treason and spying thrown around by the army and largely directed against suspect ethnic and religious groups also backfired on elements of the multinational tsarist state; the Russian public increasingly believed that key figures all the way up to the tsarina were actually German spies.24 This further undermined tsarist authority. In addition, as Peter Gatrell has argued, the wave of refugees triggered by events such as the Great Retreat and the army's determination to protect itself against suspect groups such as the Jews rolled the instability of the front back into the Russian interior.25

Apart from their internal repercussions, these policies also had repercussions for the pre-1914 norm of occupation. Army violence, even when it was allegedly aimed at maintaining the soldier/civilian divide, only increased disorder in these regions. In turn, they became more difficult, not easier, for armies to control. The formal sovereignty of the state in such areas and the claims that came with it were undercut. Ironically, the sovereign claims of the state in these areas became more extreme and more contested than ever before.26 In the Russian Empire, this process was particularly advanced, because the war undermined the sovereign claims of the state in a region where those claims were, according to Jörg Baberowski, already weak to begin with. This further undermined occupation as a norm because sovereignty was such a key element of that norm.27 The pre-1914 norm of occupation relied heavily on

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19 See Gericht des Kreiskommandos Sabac to the AOK. 28 April 1916, OStA KA, NFA, AOK-Quartiermeister-Abteilung (Qu. Abt.), Box 2389; Gericht des Kreiskommandos Sabac to the AOK. 1 May 1916, OStA KA, NFA, AOK-Qu. Abt., Box 2389; Gericht des Kreiskommandos Sabac to the AOK. 5 May 1916, OStA KA, NFA, AOK-Qu. Abt., Box 2389.


the continued functioning of a local administration, but in many cases local administrations had either completely disappeared or had been completely marginalized by national armies prior to occupation.28 If sovereignty was central to the pre-1914 norm of occupation, could such norms still be relevant when the sovereign claims of the Habsburg Empire and the Russian Empire were being increasingly eroded?

From here, events took one or other of two paths. The first further reinforced the norm of occupation and backed away from extensive violence. The leaders of the Habsburg Empire chose to follow this path. They made a desperate attempt to restore the empire's claims to sovereignty both internationally and domestically. This attempt can only be sketched out in a cursory fashion here. It led, however, to a recall of the Parliament (Reichsrat) in the Austrian half of the empire, a series of secret peace feelers in the Sixtus mission, an attempt to impress upon Germany the pressures at play in the empire and ultimately unsuccessful efforts to curb the Third Supreme Command's dramatic expansion of the war. It also resulted in the curtailment of the army's interventions in domestic politics and its application of military law to civilians. Occupation regimes, especially in Serbia, were also moved back into the norm of occupation. For Serbia, this meant that Standrecht, the emergency system of justice administered by the army, was gradually abandoned. Moreover, the occupation regime in Serbia found that proposals for forced labor programs and the right to kill suspected guerrillas or Komitadjis were struck down by the AOK because they conflicted with the pre-1914 norm of occupation. The legal officer at the Army High Command noted that these proposals by the occupation regime in Serbia were unacceptable because "in the occupation administration, international law must be upheld."29 It is well known that this attempt to bolster Habsburg sovereignty failed for a variety of reasons. Calling back the Parliament seemed to embolden nationalist groups burning with resentment at their treatment in the hands of the army since 1914. The growing prominence of the United States in world politics meant that soundings in the direction of nineteenth-century great power politics and restraint went unnoticed or even backfired. Ultimately, no one would notice an attempted, hesitant return to the norm of occupation. Occupation could not be manipulated in a way that bolstered Habsburg sovereignty.

If the Habsburg Empire met its crisis of sovereignty with an attempt to reassert its sovereign claims, re-contain conflict, and re-anchor itself in pre-1914 norms, the tsarist Empire, the Provisional Government, and their successors went even deeper into the war. The collapse of authority across Russia gathered pace in 1917. This also led to extensive surveillance and control, which although rooted in the tsarist regime's own war, were radically expanded during the Russian Civil War. This story needs no retelling here as it has already been ably recounted by historians such as Peter Holquist, Peter Gatrell, and Orlando Figes to name a few. However, its implications for the norm of occupation have often been neglected.30 The conflict itself became de-centered and a story of wars within wars as authority collapsed. This meant a departure from the pre-1914 norm of occupation by 1918. The assumptions of sovereignty and war containment in the pre-1914 norm of occupation became increasingly irrelevant. Control of occupied territories was bitterly contested and occupation regimes found themselves searching for new forms of control. Of course, the colonial model that Europe had exported across the world presented itself as an option. Yet now this model had to be deployed in a far more violent and contested situation under conditions of extreme privation. The entire pre-1914 international system, which undergirded the norm of occupation, had lost all relevance under these circumstances. While the leadership of the Habsburg Empire attempted to move back into this system with certain consequences for some of its occupied territories, across the western borders of Russia an attitude of hardened realism was beginning to shape conflict. Given such ruthless realism, the niceties of pre-1914 occupation praxis appeared dangerously naïve. Occupation was often abandoned altogether, and interventions came to the fore.

German control in the East

Germany's position was arguably stranger in this context than that of any other power. At the two Hague Conferences in 1899 and 1907, Germany had portrayed itself as the arch-occupier and was considered by other participating countries as such. It had encouraged the creation of a norm of occupa-

28 On the eclipsing of civilian authorities by military authorities in these empires, see Mark Mazower: Violence and the State in the Twentieth Century, in: The American Historical Review 4 (2002), 1175.
Jonathan E. Gumz

Alan Kramer, John Horne, and Laura Engelstein have shown, Germany was structured around war containment and sovereignty, battering down, kept many Russian laws on the books, including those concerning Jews. This was part of a frenzied and overheated attempt to maintain the divide between soldier and civilian in the context of an overly ambitious timetable for the invasion of Belgium and France, which led ultimately to transgressions of the norms of war. Yet Germany did not undergo the same crisis of sovereignty experienced by the Habsburg and Russian Empires in the first year of the war. In fact, German occupations initially seemed to hew to international norms of occupation. Despite the immediate chaos of the Great Retreat, in Poland, Germany instituted a traditional occupation administration largely in line with 1914 conceptions of occupation. That is not to say that right-wing German pressure groups such as the Eastern Marches League did not envision something far more transformative for Poland. Yet the Governor-General of Poland Hans Hartwig von Beseler sought to “maintain calm and order with severity and fairness.” This was all very much in line with the Hague Conventions. The German administrative state also made an appearance in occupied Poland, infringing on Russian sovereignty there. Various Prussian municipal ordinances were introduced and elements of municipal government were reorganized. Despite this, Germany kept many Russian laws on the books, including those concerning Jews. This was consistent with the aim of the norm of occupation to bolster the sovereignty of the departed state. From the perspective of the international Jewish community, the German army represented lawfulness and the Russian army represented arbitrary rule during the war.

But after the collapse of Russian imperial sovereignty, the basis for the pre-1914 norm of occupation became desperately fragile. The pre-1914 norm of occupation had envisioned the containment of conflict in an occupied territory and conflict intensified in its absence. As Vejas Liulevicius has shown, Germany’s actions in the East in 1917 and 1918 increasingly tended towards more ambitious attempts to control occupied territories through ‘movement policy’ (Verkehrsplötz). A good deal of scholarship has examined the cultural perceptions that fueled such policies, but much of this scholarship pays little attention to the international context that shaped the wars in which such policies were implemented. Such ambitious efforts to control territories and peoples in the East and the violence that often attended them were only possible because the categories that had previously applied to occupation had become irrelevant. Despite their attempts to hew to the pre-1914 norm of occupation earlier in the war, the German state and army increasingly turned away from that norm. Occupation, with its restrictions on violence and transformation, did not seem to apply to the East anymore and it did not offer Germany the same opportunities. In the aftermath of the Great Retreat, it was already argued in German governmental circles that the severity of Russian scorched earth policies deprived Russia of legal title to the territory it had abandoned in the summer of 1915. Such arguments, which undercut the entire pre-1914 norm of occupation, did not take immediate hold, but by 1918 it was clear that the norm of occupation was on the wane. Most German ‘occupations’ on former Russian territory in 1918 were perceived as interventions on behalf of subordinate, ‘independent’ governments. Germany now conducted increasingly intense, small-scale wars in countries with which it was actually at peace from an international legal perspective. Thus, Lithuania was transformed into a quasi-independent state ruled in actual fact by Ober Ost. Similarly, Ukraine did not have a German occupation regime, but the German army, along with the Habsburg army, intervened on behalf of the Ukrainian Central Council (Rada). General Wilhelm Groener, the chief of staff of the German intervention force in Ukraine, found this to be an entirely new situation. Groener noted:

33 At least until 1916, when the demands of German industrial groups for foreign labor reached fever pitch and there was a change in command in the German occupation of Belgium, the German army did rely heavily on the Belgian municipal bureaucracy, in line with the Hague Convention. See Sophie de Schaepdrijver: La Belgique et la Première Guerre Mondiale. Brussels 2004.
34 Jesse Curtis Kauffman: Sovereignty and the Search for Order in German-Occupied Poland, 1915-1918. PhD., Stanford 2008, 40-41 and 74-75, quotation: 40. For a recent article that contrasts German rule in Poland during the First and Second World Wars, see Wilson Chua/Jesse Kauffman/Michael Meng: A Sonderweg through Eastern Europe: The Varieties of German Rule in Poland during the Two World Wars, in: German History 3 (2013), 318-344.
ed that there was no "proper occupation" in Ukraine. The German army, he explained, had barely enough force to cover the entire country and could only be described as a "thin net." Meanwhile, the collapse of the tsarist state made the norm of occupation and its strictures about maintaining local administrations seem irrelevant. As Groener observed, the local administration was no longer to be found as the tsarist one had been "destroyed." This is not to discount German perceptions of the 'foreignness' of the East, but simply to argue that the absence of a local administration - the key to governing an occupied territory according to pre-1914 norms - was not a pure fantasy stemming from cultural images of the East in the German imagination. Even the Habsburg Empire found itself drawn away from the pre-1914 norm of occupation in places such as Ukraine. Like the Germans, Habsburg officers and diplomats found Ukraine in a state of disarray, with little evidence of the pre-1914 norms of occupation. "Every part of the state apparatus is destroyed; complete anarchy reigns," reported a Habsburg official in Kiev, "there is no administration in the countryside."}

The absence of occupation meant that the entire logic of war containment was undermined. It is ironic that the moment when visions of German control in the East seemed most acute coincided with a time when such control was beyond the Germans' reach. In the aftermath of Brest-Litovsk, Lenin did not understand the nature of the war being fought there, he explained. He argued that the Germans would find it more difficult to control territory in the East and would have to station even more soldiers there. The Germans simply did not understand the nature of the war being fought there, he explained.

Instead of leading an occupation as the pre-1914 norm had envisioned, the German army became one of many armed groups in the territories where it intervened in the East. One German unit executed approximately 2,000 captured Bolsheviks near Taganrog after being attacked in mid-1918. This incident bore all the hallmarks of uncontained conflict. The Germans involved in this atrocity believed that the conflict lay outside the standard rules of warfare. Moreover, the German unit was characterized by a dangerous mix of local superiority and broader insecurity.

As occupation disappeared across Eastern Europe in 1918, the Allied and Associated Powers began planning the occupation of the Rhineland. Marshal Ferdinand Foch referred to the Hague Conventions and the pre-1914 norm of occupation as the basis for Allied rule in the Rhineland. These were not empty words and the extent to which the Allies attempted to adhere to this norm in their occupation of the Rhineland was striking. Well into the interwar years, a directive went out to Belgian civil servants that in the event of enemy occupation, "they will be allowed to take a formal and written engagement to continue to exercise conscientiously and loyally their function and undertake nothing, nor omit anything which might be harmful to the enemy administration of occupied territory." Such moments, which appear to be in line with

Conclusions

As occupation disappeared across Eastern Europe in 1918, the Allied and Associated Powers began planning the occupation of the Rhineland. Marshal Ferdinand Foch referred to the Hague Conventions and the pre-1914 norm of occupation as the basis for Allied rule in the Rhineland. These were not empty words and the extent to which the Allies attempted to adhere to this norm in their occupation of the Rhineland was striking. Well into the interwar years, a directive went out to Belgian civil servants that in the event of enemy occupation, "they will be allowed to take a formal and written engagement to continue to exercise conscientiously and loyally their function and undertake nothing, nor omit anything which might be harmful to the enemy administration of occupied territory." Such moments, which appear to be in line with


the pre-1914 norm of occupation, can only raise questions in the light of Eastern Europe's experience of occupation in the latter years of the First World War.

The persistence of the pre-1914 norm of occupation in the West coupled with its fragility in the East should be understood as part of two broader trends in post-World War I European history. First, we can place it within the progressive limitation of sovereignty in Eastern Europe over the first half of the twentieth century. From this perspective, the interventions across Eastern Europe in the latter part of the war, themselves brought on by the way in which occupation had been undermined, can be linked to the League of Nations' Minorities Treaties. Both operated based on assumptions of limited Eastern European sovereignty. These treaties sought to create an international structure of limited sovereignty and humanitarian norms across Eastern Europe (excluding the Soviet Union of course) and were deeply resented by countries such as Poland. In the absence of imperial sovereignties, this new international structure for the region separated sovereignty in the East from sovereignty in the West. In essence, this can be read as one of the international responses to the uncontained violence that accompanied the demise of occupation in the latter years of the war. The fragility of sovereignty in Eastern Europe after 1916 persisted into the Second World War, when it was completely eviscerated in many countries. This laid the foundation for subsequent transformative occupations in the region taken over by the National Socialists and the Soviet Union. Second, the shift away from the pre-1914 norm of occupation in Eastern Europe signaled a moment when Eastern Europe became more like the rest of the world, with the German intervention in a place like Ukraine in 1918 representing a more chaotic version of the British attempt to create a limited sovereignty with special protection of British security interests in a place like Iraq in 1932. From this perspective, the presence of empires in nineteenth-century Eastern Europe brought that region back into the realm of European civilization, at least with regard to international affairs. Thus Eastern Europe was not only a cultural creation of the Enlightenment, but also an international creation of the First World War in which the fall of sovereignty and the collapse of occupation played a central role.

Of course, this all looks quite different from the world of 1914, with large portions of Eastern Europe anchored in the norm of occupation. In this sense, we can look more broadly through the lens of occupation to see how the First World War created an international divide between Eastern and Western Europe, which had been absent at the beginning of the war. That this divide would be predicated on a radical reversal of the logic of occupation, a reversal that paved the way for an expansion of violence as opposed to its containment, was the most tragic part of occupation's fragility in this part of the world.

46 Fink, Defending the Rights.
47 For an example of the persistence of sovereignty and small states in Eastern Europe, see Holly Case: Between States. The Transylvanian Question and the European Idea during World War II. Stanford 2009.