

The Concept Of Sovereignty In Past And In Present Scenario

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Abstract: Sovereignty is the central organizing principle of the system of states. However, it is also one of the most poorly understood concepts in international relations. This confusion emerges from at least two sources. Firstly sovereignty is in fact a relatively recent innovation connected to the emergence of the nation-state as the primary unit of organization. Secondly what is more, a number of contemporary issues have placed increasing limits on the exercise of sovereign authority. These two factors raise questions about the fixity of the concept of sovereignty often assumed by international relations scholars. A more sophisticated view of sovereignty now envisions states and non state actors as engaged in a continual process of renegotiating the nature of sovereignty. Some time it is said that the power to do everything in a state without accountability, --to make laws, to execute and to apply them, to impose and collect taxes and levy contributions, to make war or peace, to form treaties of alliance or of commerce with foreign nations.

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1.INTRODUCTION:

CONCEPT OF SOVEREIGNTY-Lassa Oppenheim, opined' "There exists perhaps no conception the meaning of which is more controversial than that of sovereignty. It is an indisputable fact that this conception, from the moment when it was introduced into political science until the present day, has never had a meaning which was universally agreed upon."Sovereignty in any government or government based on sovereignty is the quality having supreme, independent authority over a geographic area, such as a territory. It can be found in a power to rule and make law that rests on a political fact for which no purely legal explanation can be provided. In theoretical terms, the idea of "sovereignty", historically, from Socrates to Thomas Hobbes has always necessitated a moral imperative on the entity exercising it. From the very beginning the idea that a state could be sovereign was always connected to its ability to guarantee the best interests of its own citizens. Thus, if a state could not act in the best interests of its own citizens, it could not be thought of as a sovereign state. This concept o has been discussed, debated and questioned throughout history, from the time of the Romans through to the present time. Although much criticized, the concept of sovereignty is still central to most thinking concept in the context of a nation-state right to monopolize certain exercises of power with respect to its territory and citizens has been discredited in many ways but it is still prized and harbored by those who maintain certain realist views or who otherwise wish to prevent foreign or international powers and

authorities from interfering in a national government's decisions and activities. Other mean, when one begins to analyze and disaggregate the concept of sovereignty, it quickly becomes apparent that it has many dimensions. Whereas "sovereignty" is invoked in context or manner designed to avoid and prevent analysis, sometimes with an advocate's intent to fend off criticism or justifications for international "infringements" on the activities of a nation-state or its internal stakeholders and power operators. In addition to the "power monopoly" function, sovereignty also plays other important roles. For example, the concept is central to the idea of "equality of nations," which can be abused and, at times, is dysfunctional and unrealistic, such as in inducing "consensus" as a way to avoid the "one nation, one vote" approach to decision making in international institutions. This idea is not so good but so far as international relation is concerned it lead to paralysis, damaging appropriate coordination and other decision making . The concept of equality of nations is linked to sovereignty concepts because sovereignty has fostered the idea that there is no higher power than the nation-state, so its "sovereignty" Negates the idea that there is a higher power, whether foreign or international "Sovereignty" also plays a role in defining the status and rights of nation-states and their officials. Thus, we recognize "sovereign immunity" and the consequential immunity for various purposes of the officials of a nation-state. Similarly, "sovereignty" implies a right against interference or intervention by any foreign power. It can also play an antidemocratic

role in enforcing extravagant concepts of special privilege of government officials. Therefore, one can easily see the logical connection between the sovereignty concepts and the very foundations and sources of international law. If sovereignty implies that there is “no higher power” than the nation-state, then it is argued that no international law norm is valid without the state consent. But reality is that, treaties almost always imply, in a broader sense, the “legitimate” consent of the nation-states that accepted the importance and need for this type of analytic activity should be obvious, but still merits mention. Much has been said and written about “globalization”; despite being an ambiguous term of controversial connotation, it is reasonably well understood to apply to the exogenous world circumstances of economic and other forces that have developed in recent decades owing, in major part, to the sharply reduced costs and time required for the transport of goods and similar reductions in costs and time requirements for communication. These circumstances have led to new structures of production; they, in turn, have resulted in greatly enhanced interdependence, which we can do little to remedy and which often renders the older concepts of “sovereignty” or “independence” fictional. Indeed, these circumstances, particularly those of communication techniques heretofore unknown, are seen as having dramatic effect on the way governments act internally. In addition, these circumstances often demand action that no single nation-state can satisfactorily carry out, and thus require some type of institutional “coordination” mechanism. In his classic, *The King's Two Bodies* (1957), medievalist Ernst Kantorowicz describes a profound transformation in the concept of political authority over the course of the Middle Ages. The change began when the concept of the body of Christ evolved into a notion of two bodies — one, the *corpus naturale*, the consecrated host on the altar, the other, the *corpus mysticum*, the social body of the church with its attendant administrative structure. This latter notion — of a collective social organization having an enduring, mystical essence — would come to be transferred to political entities, the body politic. Kantorowicz then describes the emergence, in the late Middle Ages, of the concept of the king's two bodies, vivified in Shakespeare's Richard II and applicable to the early modern body politic. Whereas the king's natural, mortal body would pass away with his death, he was also thought to have an enduring, supernatural one that could not be destroyed, even by assassination, for it represented the mystical dignity and justice of the body politic.

2. **Stephen Krasner** in *Sovereignty: Organized Hypocrisy* enumerated four kinds of sovereignty-

2.1. Legal sovereignty, which Krasner defines as states recognizing one another as independent territories.

2.2. Interdependence sovereignty, which is an eroding mechanism of sovereignty. Krasner sees **globalization** (capital flows, migration, and ideas) as a way in which the power of sovereignty in states is being increasingly lessened.

2.3. Domestic sovereignty is seen as the standard, this definition refers to state authority structures and their effectiveness of control within the state.

2.4. Westphalian sovereignty, which Krasner declares is the concept that states have the right to separately determine their own domestic authority structures.

Kantorowicz described that sovereignty is a signature feature of modern politics. Some scholars have doubted whether a stable, essential notion of sovereignty exists. But there is in fact a definition that captures what sovereignty came to mean in early modern Europe and of which most subsequent definitions are a variant: *supreme authority within a territory*. This is the quality that early modern states possessed, but which popes, emperors, kings, bishops, and most nobles and vassals during the Middle Ages lacked. Territoriality is now deeply taken for granted. It is a feature of authority all across the globe. Even supranational and international institutions like the European Union and the United Nations are composed of states whose membership is in turn defined territorially. This universality of form is distinctive of modernity and underlines sovereignty's connection with modernity. Though territoriality has existed in different eras and locales, other principles of membership like family kinship, religion, tribe, and feudal ties have also held great prestige. Most vividly contrasting with territoriality is a wandering tribe, whose authority structure is completely disassociated with a particular piece of land. Territoriality specifies by what quality citizens are subject to authority — their geographic location within a set of boundaries. International relations theorists have indeed pointed out the similarity between sovereignty and another institution in which lines demarcate land — private property. Indeed, the two prominently rose together in the thought of Thomas Hobbes. Supreme authority within a territory — this is the general definition of sovereignty. Historical manifestations of sovereignty are almost always specific instances of this general definition. It

is in fact the instances of which philosophers and the politically motivated have spoken most often, making their claim for the sovereignty of this person or that body of law. Understanding sovereignty, then, involves understanding claims to it, or at least some of the most important of these claims. As suggested, diverse authorities have held sovereignty kings, dictators, peoples ruling through constitutions, and the like. The character of the holder of supreme authority within a territory is probably the most important dimension of sovereignty. In early modern times, French theorist Jean Bodin thought that sovereignty must reside in a single individual. Both he and English philosopher Thomas Hobbes conceived the sovereign as being above the law. Later thinkers differed, coming to envision new loci for sovereignty, but remaining committed to the principle. Sovereignty can also be absolute or non-absolute. How is it possible that sovereignty might be non-absolute if it is also supreme? After all, scholars like Alan James argue that sovereignty can only be either present or absent, and cannot exist partially. But here, absoluteness refers not to the extent or character of sovereignty, which must always be supreme, but rather to the scope of matters over which a holder of authority is sovereign. Bodin and Hobbes envisioned sovereignty as absolute, extending to all matters within the territory, unconditionally. It is possible for an authority to be sovereign over some matters within a territory, but not all. Today, many European Union (EU) member states exhibit non-absoluteness. They are sovereign in governing defense, but not in governing their currencies, trade policies, and many social welfare policies, which they administer in cooperation with EU authorities as set forth in EU law. Absolute sovereignty is quintessential modern sovereignty. But in recent decades, it has begun to be circumscribed by institutions like the EU, the UN's practices of sanctioning intervention, and the international criminal court.

In these situations, the words do not describe exclusive sorts of sovereignty, but different aspects of sovereignty that are coexistent and omnipresent. Sovereign authority is exercised within borders, but also, by definition, with respect to outsiders, who may not interfere with the sovereign's governance. The state has been the chief holder of external sovereignty since the Peace of Westphalia in 1648, after which interference in other states' governing prerogatives became illegitimate. The co Supreme authority with a territory — within this definition, sovereignty can then be understood more precisely only through its history. This history can be told as one of two broad movements — the first, a centuries long evolution towards a European continent, then a

globe, of sovereign states, the second, a circumscription of absolute sovereign prerogatives in the second half of the twentieth century.

In a present time, norms of sovereignty are enshrined in the Charter of the United Nations, whose article 2(4) prohibits attacks on “political independence and territorial integrity,” and whose Article 2(7) sharply restricts intervention. As the sovereign state was occupying the European continent, piece by piece, in early modern times, eventually forming the system that came to occupy the globe, contemporary political philosophers embraced this form of polity and described what made it legitimate. They were not originators of the concept, for even during medieval times, philosophers argued that a separation of temporal and religious powers that would be achieved through a transfer of prerogatives into temporal ruler's hands. After that in early modern times, there were two roughly contemporary philosophers who did not write explicitly or consciously of sovereignty, yet whose ideas amounted in substance to important developments of the concept. Machiavelli observed the politics of city states in his Renaissance Italy and described what a prince had to do to promote a flourishing republic in terms that conferred on him supreme authority within his territory. Manifestly, he was not to be bound by natural law, canon law, Gospel precepts, or any of the norms or authorities that obligated members of Christendom. For example Prince was supreme within the state's territory and responsible for the well being of this singular, unitary body. The unity and universality and essential rightness of the sovereign territorial State, and the denial of every extra-territorial or independent communal form of life, are Luther's lasting contribution to politics. Other early modern philosophers, of course, espoused the doctrine of sovereignty explicitly, and are thus more familiarly associated with it. French philosopher Jean Bodin was the first European philosopher to treat the concept extensively. His concept of *souveraineté* featured as a central concept in his work, *De la république*, which he wrote in 1576, during a time when France was sundered by civil war between Calvinist Huguenots and the Catholic monarchy. He viewed the problem of order as central and did not think that it could be solved through outdated medieval notions of a segmented society, but only through a concept in which rulers and ruled were integrated into a single, unitary body politic that was above any other human law, and was in fact the source of human law. This concept was sovereignty. Only a supreme authority within a territory could strengthen a fractured community. The rise and global expansion of sovereignty, described and even

lauded by political philosophers, amounts to one of the most formidable and successful political trends in modern times. But from its earliest days, sovereignty has also met with both doubters and qualified supporters, many of whom have regarded any body of law's claim to sovereign status as a form of idolatry, sometimes as a carapace behind which rulers carry out cruelties and injustices free from legitimate outside scrutiny. It was indeed after the Holocaust that meaningful legal and institutional circumscriptions of sovereignty in fact arose, many of which have come to abridge the rights of sovereign states quite significantly. The two most prominent curtailments are conventions on human rights and European integration.

In 1948 that the vast majority of states signed the Universal Declaration of Human Rights, committing themselves to respect over 30 separate rights for individuals. As it was not a legally binding declaration and contained no enforcement provisions, the declaration left states' sovereignty intact, but it was a first step towards tethering them to international, universal obligations regarding their internal affairs. Over decades, these human rights would come to enjoy ever stronger legal status. One of the most robust human rights conventions, one that indeed curtails sovereignty, even if mildly, through its arbitration mechanisms, is the European Convention for the Protection of Human Rights and Fundamental Freedoms, formed in 1950. Roughly contemporaneous, signed on December 9, 1948, was the Genocide Convention, committing signing states to refrain from and punish genocide. Then, in the mid-1960's, two covenants — the Covenant on Civil and Political Rights and the Covenant on Economic, Social and Cultural Rights — legally bound most of the world's states to respecting the human rights of their people. Again, the signatories' constitutional authority remained largely intact, since they would not allow any of these commitments to infringe upon their sovereignty. Subsequent human rights covenants, also signed by the vast majority of the world's states, contained similar reservations. Only a practice of human rights backed up by military enforcement or robust judicial procedures would circumscribe sovereignty in a serious way. Progress in this direction began to occur after the Cold War through a historic revision of the Peace of Westphalia, one that curtails a norm strongly advanced by its treaties non-intervention. In a series of several episodes beginning in 1990, the United Nations or another international organization has endorsed a political action, usually involving military force, that the broad consensus of states would have previously regarded as illegitimate interference in internal affairs. The episodes have involved the

approval of military operations to remedy an injustice within the boundaries of a state or the outside administration of domestic matters like police operations. Unlike peacekeeping operations during the Cold War, the operations have usually lacked the consent of the government of the target state. They have occurred in Iraq, the former Yugoslavia, Bosnia, Kosovo, Somalia, Rwanda, Haiti, Cambodia, Liberia, and elsewhere. Although the legitimacy and wisdom of individual interventions is often contested among states — the U.S. bombing of Iraq in December 1999 and NATO's intervention in Kosovo, for instance, failed to elicit U.N. Security Council endorsement, as did the U.S. invasion of Iraq in 2003 — the broad practice of intervention is likely to continue to enjoy broad endorsement within the U.N. Security Council and other international organizations. An explicit call to revise the concept of sovereignty so as to allow for internationally sanctioned intervention arose with The Responsibility to Protect, a document written and produced in 2001 by the International Commission on Intervention and State Sovereignty, a commission that the Government of Canada convened at the behest of U.N. Secretary General Kofi Annan. The document proposes a strong revision of the classical conception by which sovereignty involves a “responsibility to protect” on the part of a state towards its own citizens, a responsibility that outsiders may assume when a state perpetrates massive injustice or cannot protect its own citizens. Responsibility to Protect has garnered wide international attention and serves as a manifesto for a concept of sovereignty that is non-absolute and conditional upon outside obligations. The other way in which sovereignty is being circumscribed is through European integration. This idea also arose in reaction to the Holocaust, a calamity that many European leaders attributed at least in part to the sovereign state's lack of accountability. Historically, the most enthusiastic supporters of European integration have indeed come from Catholic Christian Democratic parties, whose ideals are rooted in medieval Christendom, where at least in theory, no leader was sovereign and all leaders were accountable to a universal set of values. In the modern language of human rights and democracy, they echo Pope Innocent X's excommunication of the Peace of Westphalia. This circumscription of the sovereign state, through international norms and supranational institutions, finds a parallel in contemporary philosophers who attack the notion of absolute sovereignty. Their thought is not entirely new, for even in early modern times, philosophers like Hugo Grotius, Alberico Gentili, and Francisco Suarez, though they accepted the state as a legitimate

institution, thought that its authority ought to be limited, not absolute.

Every ruler could be subject to a disciplining action from neighboring princes that is much like contemporary notions of humanitarian intervention. Perhaps the two most prominent attacks on sovereignty from political philosophers since World War II come from Bertrand de Jouvenel and Jacques Maritain. In his prominent work of 1957, *Sovereignty: An Inquiry Into the Political Good*, Jouvenel acknowledges that sovereignty is an important attribute of modern political authority, needed to quell disputes within the state and to muster cooperation in defense against outsiders. But he roundly decries the modern concept of sovereignty, which creates a power who is above the rules, a power whose decrees are to be considered legitimate simply because they emanate from his will. To Jouvenel, sovereignty reached its peak in Hobbes, in whose "horrific conception everything comes back to means of constraint, which enable the sovereign to issue rights and dictate laws in any way he pleases. But these means of constraint are themselves but a fraction of the social forces concentrated in the hand of the sovereign. Despite their differences over the locus and form of sovereignty, subsequent thinkers like Locke, Pufendorf, and Rousseau "were to feel the lure of this mechanically perfect construction. This was "the hour of *sovereignty in itself*," writes Jouvenel, the existence of which "hardly anyone would thenceforward have the hardihood to deny. It is my contention that political philosophy must get rid of the word, as well as the concept, of Sovereignty: not because it is an antiquated concept, or by virtue of a sociological-juridical theory of "objective law"; and not only because the concept of Sovereignty creates insuperable difficulties and theoretical entanglements in the field of international law; but because, considered in its genuine meaning, and in the perspective of the proper scientific realm to which it belongs — political philosophy — this concept is intrinsically wrong and bound to mislead us if we keep on using it — assuming that it has been too long and too largely accepted to be permissibly rejected, and unaware of the false connotations that are inherent in it. Bodin's and Hobbes' mistake was in conceiving of sovereignty as authority that the people permanently transferred and alienated to an external entity, here the monarch. Rather than representing the people and being accountable to it, the sovereign became a transcendent entity, holding the supreme and inalienable right to rule over the people, independently of them, rather than representing the people, accountable to them. Like Juvenile, Maritain rues the exaltation of the sovereign's will such that

what is just is what serves his interest. This is idolatry. Any transfer of the authority of the body politic either to some part of itself or to some outside entity — the apparatus of the state, a monarch, or even the people — is illegitimate, for the validity of a government is rooted in its relationship to natural law. Sovereignty gives rise to three dysfunctional ties. First, its external dimension renders inconceivable international law and a world state, to both of which Maritain is highly sympathetic. Second, the internal dimension of sovereignty, the absolute power of the state over the body politic, results in centralism, not pluralism. Third, the supreme power of the sovereign state is contrary to the democratic notion of accountability. As a Catholic philosopher, Maritain's arguments run similar to Christian philosophers of early modern Europe who criticized absolute sovereignty. Witnessing the rise of the formidable entity of the state, they sought to place limits on its power and authority. They are the ancestors of those who now demand limits on the state's authority in the name of human rights, of the right to quell genocide and disaster and deliver relief from the outside, of an international criminal court, and of a supranational entity that assumes power of governance over economic, and now, may be, military affairs.

Sovereignty in government is that public authority which directs or orders what is to be done by each member associated in relation to the end of the association. It is the supreme power by which any citizen is governed and is the person or body of persons in the state to whom there is politically no superior. The necessary existence of the state and that right and power which necessarily follow is "sovereignty." By "sovereignty" in its largest sense is meant supreme, absolute, uncontrollable power, the absolute right to govern. The word which by itself comes nearest to being the definition of "sovereignty" is will or volition as applied to political affairs.

Conclusion & Suggestion:

Thus the concept of sovereignty was closely related to the growth of the modern nation-state, and today the term is used almost exclusively to describe the attributes of a state rather than a person. A sovereign state is often described as one that is free and independent. But in its internal affairs it has undivided jurisdiction over all persons and property within its territory. It claims the right to regulate its economic life without regard for its neighbors and to increase armaments without limit. No other nation may rightfully interfere in its domestic affairs of other country. In its external relations it claims the right to enforce its own conception of rights and announce war without notice. Rule and regulations of

international bodies, Mostly person have the opinion that the concept of sovereignty is only to change a cross time and space ,student of international law and international relation and some to transform of global institution .

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