

Sovereignty in the Modern Context: How Far Have We Come?

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Abstract

The present article, through doctrinal research, traces the evolution of the concept of sovereignty from being 'rule of the monarch' to 'rule of law' and from 'absolute sovereignty' to 'relative sovereignty.' Such a change can be attributed to various factors such as globalism, interdependence and co-operation between nation-states, the United Nations, international criminal jurisdiction, rules of warfare and weaponry, human rights, democracy and minority groups, which have been examined herein. Finally, the effort concludes by evaluating the concept of modern sovereignty.

Keywords: Absolute sovereignty, relative sovereignty, power, United Nations, globalization, world politics

1. Introduction

The English term, sovereignty, which permeates the language of law and politics, is derived from the French term *souverain*, who is ascertained to be "a supreme ruler not accountable to anyone, except perhaps to God".

Further, it has been iterated time and again that international law is based on the principle of sovereignty, that sovereignty is the most important if not the only structural principle of international law that shapes the content of nearly all rules of international law, that the international legal order is merely an expression of the uniform principle of external sovereignty, that sovereignty is the criterion for membership in the international society, and that sovereignty in sum is the 'cornerstone of international law' and the 'controlling principle of world order.'

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However, in the same vein it has been opined that there exists perhaps no conception, the meaning of which is more controversial than that of sovereignty. It is an undisputable fact that this conception, from the moment when it was introduced into political science until the present day, had never had a meaning which was universally agreed upon (L.Oppenheim, 1992) as sovereignty may mean different things to different people living in different cultures, throughout different periods (historically and contemporaneously), who practice (and practiced) different specialized or professional competences (Reisman, *Sovereignty and Human Rights in Contemporary International Law*, 1990).

Krasner (Kranser, 2000) identifies the following four ways in which the term sovereignty is commonly used:

- Domestic sovereignty, which refers to the organisation of political authority within a state and the level of control enjoyed by a state.
- Interdependence sovereignty, which is concerned with the question of control, for example, the ability of a state to control movements across its own borders.
- International legal sovereignty, which is concerned with establishing the status of a political entity in the international system. The state is treated at the international level similarly to the individual at the national level.
- Westphalian sovereignty, which is understood as an institutional arrangement for organising political life and is based on two principles, namely territoriality and the exclusion of external factors from domestic structures of authority. Westphalian sovereignty is violated when external factors influence or determine the domestic authority structures. This form of sovereignty can be compromised through intervention as well as through invitation, when a state voluntarily subjects internal authority structures to external constraints.

Thus, on an analysis of the innumerable researches conducted ever since the mentioning of this concept, it can be deciphered that Sovereignty may refer to:

- Sovereignty as a personalized monarch (real or ritualized);
- Sovereignty as a symbol for absolute, unlimited control or power;
- Sovereignty as a symbol of political legitimacy;
- Sovereignty as a symbol of political authority;
- Sovereignty as a symbol of self-determined, national independence;
- Sovereignty as a symbol of governance and constitutional order;

- Sovereignty as a criterion of jurisprudential validation of all law ('grundnorm', rule of recognition, sovereign);
- Sovereignty as a symbol of the juridical personality of Sovereign Equality;
- Sovereignty as a symbol of recognition;
- Sovereignty as a formal unit of legal system;
- Sovereignty as a symbol of powers, immunities, or privileges;
- Sovereignty as a symbol of jurisdictional competence to make and/or apply law; and
- Sovereignty as a symbol of basic governance competencies (constitutive process) (Nagan & Hammer, *The Changing Character of Sovereignty in International Law and International Relations*, 2004).

Although it is not possible to formulate an all-inclusive definition of sovereignty, two major points of view with regard to the concept of sovereignty can continuously be identified. The first view is that sovereignty means absolute power above the law and that absolute sovereignty constitutes one of the most powerful and inviolable principles in international law (Ninčić, 1970). The second view is that it is of utmost significance that states – as the most important subjects of international law – do not claim that they are above the law or that international law does not bind them (Bodely, 1999). This leads to the dual aspect of sovereignty, which is inclusive of the concept of both internal and external sovereignty. Internal sovereignty may be described as the competence and authority to exercise the function of a state within national borders and to regulate internal affairs freely. Internal sovereignty thus comprises of the whole body of rights and attributes that a state possesses in its territory. External sovereignty is traditionally understood as legal independence from all foreign powers, and as impermeability, thus protecting the state's territory against all outside interference (B. Fassbender, 2003).

2. Transformation in the Concept of Sovereignty

According to the classical notion of sovereignty the right to engage in war is seen as one of the key elements of sovereignty and no binding legal rules obliging states to keep the peace are accepted. Nevertheless, the concept of sovereignty is neither “natural” nor static.

Because of a process that has increasingly placed constraints on the freedom of action of states, the substance of the notion of sovereignty has changed and will further change in future (B. Fassbender, 2003).

The hold of the classic regime of sovereignty was dislodged within the boundaries of nation-states by successive waves of democratization (Potter, Goldblatt, Kiloh, & Lewis, 1997). While these were primarily aimed at reshaping the national polity, they had spillover effects for the interstate system (Bull, 2002).

Further, since the beginning of the twentieth century it has become increasingly apparent that the classical approach to sovereignty as absolute and unlimited authority constitutes a threat to international peace and to the existence of independent nation states. In today's world, too much sovereignty is inherently a bad policy option. When a state in this era opts for absolute sovereignty, it will suffer from isolation and economic deprivation. Indeed, if sovereignty is the responsibility of a state to cater to the well-being of its nationals, then interdependence and international integration is the best course of action if doing so secures such an outcome.

Thus, the cardinal question was asked whether a sovereign state, with no authority above it, can be bound by international law especially in light of the prevalent dualistic approach to international and municipal law. However, as a result of the horrors of war, anti-sovereign doctrines emerged that tended to replace the dualist doctrine which placed emphasis on the will of states, with a monistic approach that sought to establish a common source for international and national law. Some of the most important authors of the monistic school of thought include Krabbe, Duguit and Kelsen.

According to Krabbe, national and international law have essentially the same quality and are above state rule. However, because international law is the law of the larger community, it takes precedence over national law. He envisages the eventual establishment of a so-called world state which is founded upon popular representation and is able to enforce a world-wide sense of right.

The development of such an absolutist world state may finally result in the disappearance of individual states or the degrading of these states to mere executors of the aims of the universal community (Krabbe, 1906).

Duguit states that the concept of sovereignty is in the process of disintegration insofar as the idea of public service increasingly forms the foundation of modern state theory. He describes public service as those activities that the government is bound to perform.

These activities display an internal as well as an external (international) character as the result of the interdependence between states. The recognition of individual rights simultaneously determines both the direction and the limit of public activity. It thus constitutes the source of all rules regulating the relationship between individuals and the state (Duguit, 1921).

Kelsen identifies a certain hierarchy of norms, at the top of which the norms of international law can be found. According to him there are two possible 'grundnorms' in the international sphere, namely the supremacy of the municipal system or the supremacy of international law. By emphasizing the supremacy of international law, Kelsen foresees the eradication of the borderline between international and national law, the creation of a universal legal community and the eventual emergence of a world state (Kelsen, 2009).

As a result of the changing thought procedure, the principle of absolute sovereignty is thus replaced by a concept of relative sovereignty, where the freedom of each state is limited by the freedom of other states and the independence of a state is subjected to international law. Therefore it came about that sovereignty might to a certain extent be subordinated to international law. The sovereignty of one state, however, cannot be subordinate to that of another state because sovereignties are, by their very essence, equal. A consequence of this is that the concept of sovereignty tends to merge increasingly with the concept of independence. However, the independence of a state is not absolute. It is limited by the equal freedom and independence of other states as well as by international conventions and specific agreements entered into by states (Ninčić, 1970).

3. Phases Depicting Changes in Concept of Sovereignty

The Treaty of Westphalia marks the first phase in the development of the modern notions of sovereignty. Interpretations of this document led to the establishment of the modern system of nation-states, in which the sovereign reigned supreme domestically, as well as in its relations with other states.

In this regard, the monarch who gives the law is considered to be above the edicts of his own commands (Bodin, 1962).

The second phase in the development of the principle of sovereignty was ushered in by World War II and its conclusion in 1945. In this phase, the absolute power claimed by sovereign states came tête-à-tête with the creation of the United Nations Organization and various Inter-governmental bodies that espoused the idea of collective actions and state accountability to an international community. The creation of these state-consented supranational organizations was geared toward predictability in the international system to potentially forestall another war on the global stage. Here, states move away from absolute rule and begin to share some of its functions with institutions above and below the national level (Cohan, 2006) and when states undertake actions to cooperate with each other for mutual benefits, they cede some of their authorities in those areas on decisions that are dictated by such supranational bodies.

Following World War II, there was a proliferation of international organizations, which included various inter-governmental organizations, such as the United Nations, the International Court of Justice (ICJ), the International Monetary Fund, the European Human Rights Convention, and the European Union. These cooperative international institutions were put into place to harmonize both economic and non-economic agendas of the world community. As a result of the overwhelming numbers of these institutions, the international system has now become a "tightly woven fabric of international agreements, organizations and institutions that shape states' relations with one another and penetrate deeply into their internal economics and politics." (Chayes & Chayes, 1998)

The next phase of the development of state sovereignty is rooted in the wave of democratization that swept the world after the collapse of the Soviet Union and subsequent end to the Cold War, which saw an end to dictatorships around the world akin to the political order in the USSR.

The challenges posed by ordinary citizens to absolute dictators, who could no longer count on their patrons for protection, saw the demands for democratic institutions, values, and practices necessary to make their government more attuned to their needs. In this phase, there was a renaissance of the idea of sovereignty as something that emanated from the people, rather than being something inherent in the state (Reisman, Coercion and Self Determination: Construing Article 2(4), 1984).

Another phenomenon that has led to the erosion of sovereignty is globalization. Generally speaking, globalization is the intensive interaction between people and economic entities due to the ever-decreasing costs and time-efficient means of moving goods and services between the communities of the world. It also entails the increasing ability of people across the world to communicate with each other. The spectacular ease with which information is collected and disseminated across borders has curtailed the ability of authoritarian states to control the flow of communication in and out of the state, hence the kind of information their citizens receive. In another way, the communication revolution has worked to enhance the interdependence of sovereignty by giving the state a greater capacity to keep tabs on those within its borders by deploying surveillance technologies (Kelleh, 2012).

Thus it can be seen that the ideas inherent in sovereignty have changed over time in phases and continue to do so up to today and will continue to be reevaluated in light of new challenges and opportunities faced by individual states and the collective of states at the international level.

4. Influential Factors

The various determinants, which have played a vital role in bringing the concept of sovereignty to its current state, have been enumerated as under.

4.1. Sovereignty and Interdependence and Co-Operation between Nation-States

Even though the traditional understanding of sovereignty still primarily focuses on independence, the definition of sovereignty as an absolute concept of unlimited freedom and authority is questioned.

States have come to realise that there exists a need for co-operation in order to achieve the advancement of community goals and that all members of the international community must take into account the valid interests of the other members when exercising their sovereignty (Martinez & Magdalena, 1996).

States can no longer act completely independently of each other, as there remain increasingly few aspects of life which are not dependent on, or do not respond to, activities outside the state's boundaries.

This tendency directly challenges the traditional understanding of sovereignty as supreme authority and independence. Although the majority of scholars of international law are still of the opinion that international law is founded on the will of states, they contend that it must be submitted to some restraint. This restraint may be found in the conception of international society. The individual state cannot exist in isolation and therefore the relationship between states is one of independence (Kooijmans, 1964).

The growing idea of co-operation and interdependence between states necessitates the existence of an international community of states. It has also been stated that the principle of absolute sovereignty is a mere fiction that came to be recognised as the foundation of modern relations theory and practically sovereignty has always been limited by the realities of power and that states have never enjoyed entire independence from each other, nevertheless if sovereignty ever existed in its absolutist sense (which it probably did not), both doctrinally and practically it is waning in the twentieth century (Nagan & Hammer, *The Changing Character of Sovereignty in International Law and International Relations*, 2004).

4.2. Sovereignty and Globalism

Today, sovereignty confronts the challenge of globalism (Nagan, *Lawyer Roles, Identity and Professional Responsibility in an Age of Globalism*, 2001). It is commonly held that the conditions which support globalism, such as technological advances, the communications revolution, advances in business organization, political activism, terrorism, and organized crime conspire to undermine territorial boundaries and permit the exchange of science, culture, political economy, and the growth of beneficent and malevolent global civil society. This does not mean the demise of sovereignty: it means change. Sovereignty may indeed be strengthened as it changes to meet new needs and opportunities. In other ways, sovereignty may be limited in its capacity to deny international responsibilities and domestic obligations.

An analysis of the world social process yields a vast number of participants and institutions that comprise the global community. Among these are State sovereigns, international and regional organizations, political parties, business groups, pressure groups, NGOs, and individuals in various roles relevant to social relations within and across State and national lines and leaving their own impressions on sovereignty (McDougal & Lasswell, 1959).

Further, globalization, which is a product or result of historical or social processes, has been bringing about to the transformation of the classical version of nation state. In this framework new concepts like the post sovereign state/period or shared sovereignty have come up for replacing the understanding of sovereign state. During the globalization process states have been sharing some of classical authorities of sovereignty with supra and sub-nation units. The new concept of so called governance has taken the nation state from being the single determining factor in its own boundaries. The nation state is still an important actor, but it has given up the sovereignty, which meant earlier on to be the highest, comprehensive, unlimited and unshared authority. The state of the new period constitutes a part of the new structure in which much wider and multilateral platforms take place compared to the old one (Scholte, 2005). The classical sovereignty of the nation state has been transformed in extent that the power is used by sharing in a framework in which the levels of regional, local and global take place (Duman & Seyrek, 2011).

Thus, the process of globalization has made that certain arguments in three main areas and the applications based on this have been inevitable for the modern state. Firstly, the spreading of the concept of the universal human right has brought some limitations to the sovereignty of nation state in the area of law. Secondly, the idea of free market has come forward in the economic field, and the intervention of the nation state has been restricted in this area. And lastly, the idea of liberal democracy has expanded quickly. The process of democratization has become an important part of the agenda in most countries of the world; the democratic management has been regarded as the universal standard of civilization and has become a normative necessity.

Thus, it needs to be remembered that we have been living in an order in which the nation states have been reformed according to the changes created by globalization, but not in world which is centered with the modern state in classical meaning (Machiavcelli, 1998).

4.3. Sovereignty and the United Nations

It is perhaps a paradox that sovereign independence is now often accompanied by sovereign membership in various regional associations and international organizations, which juridically limits sovereignty.

For example, membership in the United Nations conditions sovereignty; in other words, sovereignty cannot trump the obligations and international responsibilities of the UN. Even more striking are State claims to associate with supranational regional compacts and, in so doing, relinquish some autonomy in exchange for the benefits of membership. Examples of this include the European Union, the African Union, and the Organization of American States. The most prominent amongst such institutions is definitively the United Nations.

The Charter does not define sovereignty. The first words in the Preamble of the Charter introduces key terms: 'We the Peoples of the United Nations determined.' The references to 'Peoples' and 'nations' when coupled with the term 'determined' suggest that the people of the world are the ultimate source of international authority; moreover, the people have 'determined' or made an affirmative decision, to adopt a Charter of the UN because of certain problems and conditions of global salience. The member States comprising the UN are sovereign; the idea that sovereign legitimacy and authority under the Charter is derived from the Peoples ultimately assumes that in the international community, sovereign national authority is itself in some degree constrained by the authority of the people it seeks to symbolize or represent. Further, the demands of 'the Peoples' are expressed in four fundamental principles on which the UN is premised: war prevention and security; protection of human rights and dignity; respect for social progresses according to the rule of law; and higher living standards and development, with the goal being global socio-economic equity. The Preamble and Chapter I of the Charter spell out the scope (including the outer limits) of international concern and the limitations on sovereignty.

Article 2(7) comes closest to defining sovereignty by indicating that the UN is not authorized to intervene in matters essentially within the domestic jurisdiction of any State. This article could as well be read in light of Article 2(4), which prohibits the threat or use of force to attack the 'territorial integrity or political independence of any State.' Among the specific restrictions on State sovereignty in Article 2 are that States are subject to a good faith obligation to honor charter values and that they must settle disputes by peaceful methods (U.N. Charter art. 1, para. 2, 3). A further criterion that strengthens the principle that the UN Charter is a sovereignty-dominated instrument is found in the membership provisions of Chapter II. Article 3(1) States that the original members of the UN 'shall be States.' Article 4 States that membership in the UN is open to 'all other peace loving States which accept the obligations contained in the 'Charter.'

Although membership in the UN is exclusively a matter of State sovereignty, an institutional set of limits is imposed: the State must be 'peace-loving' and accept all charter obligations and accept the obligations of international law as developed under the Charter. Although Article 6 may be exercised in highly unusual or exceptional cases, it does stipulate that a State may be expelled from the UN if it is a persistent violator of the UN Charter. Thus, the Charter supports and seeks to protect and advance a particular form of good governance-oriented sovereignty. It also seeks to discourage other forms of sovereignty associated with State absolutism, which seeks to position sovereignty above Charter obligations.

There are, of course, other UN Charter limits on sovereignty that emerge from the creation of the institutions of decision-making that comprise the UN. For example, Chapter IV, which outlines the composition and workings of the General Assembly, gives the Assembly the power to highlight any issue and mobilize Assembly opinion by making it a matter for international discussion and elaboration. Specifically, the General Assembly States that under Article 10, it may discuss any matter within the scope of the 'Charter.' (U.N. Charter art. 10) In addition, the Assembly has the power to initiate studies and make recommendations; this promotional Assembly function may have expectation-creating communicative properties. Assembly recommendations may even be a form of soft international law making that might be binding on sovereign States in limited circumstances (U.N. Charter art. 13).

The powers of the UN Security Council confer special security related competences upon certain member States.

The five permanent members exercise what some scholars deem to be super sovereign powers. The five permanent members have the special power of the veto in the Council. Other elected members have extra powers by virtue of membership in the Council, but do not exercise veto competence. The importance of these powers cannot be gainsaid; the Security Council is given the primary global responsibility for peace and security (U.N. Charter art. 24, 41, 42) and has the competence to enforce its decision pacifically (Chapter VI) or by the use of force (Chapter VII) (U.N. Charter art. 42). It has the competence to determine whether there exists any threat to the peace, breach of the peace, or act of aggression (U.N. Charter art. 39).

Thus, by joining the United Nations, member states willingly surrendered aspects of their national sovereignty. For example, they consented to submit decisions relating to international peace and security to the UN Security Council, thereby limiting their ability to use force. Additionally, UN Security Council decisions are binding on members states. The International Court of Justice similarly champions the importance of international rules over domestic rules. An excellent example of this is in an Advisory Opinion issued on April 26, 1988, in which the Court asserted that "the fundamental principle of international law that it prevails over domestic law." Ultimately, the court accepted that tacit in a State's membership in the international community is a clear limitation on its sovereignty (Applicability of the Obligation to Arbitrate under Section 21 of the United Nations Headquarters Agreement of 26 June 1947, 1988 ICJ REP. 12, 34, para. 57 (Advisory Opinion of Apr. 26)).

4.4. Sovereignty and Universalizing International Criminal Jurisdiction

One of the most important outcomes of the conflict of World War II (including the concept of total war and the idea that the State can exterminate, enslave, or otherwise brutalize human beings it regards as 'others and inferiors' even if these people were citizens of the State or citizens of States subject to belligerent occupancy) was the principle that the aggressor State abused its sovereignty and its leaders could be accountable directly to the international community for criminal conduct. The principle established was a challenge to the scope of sovereignty, which was inherited from the (pre- WWII) past. These changes were, in fact, revolutionary from an international law/international relations point of view.

They were major changes in the international constitutional system, not only as limitations on sovereignty, but also by making individual State officials directly accountable, they created the principle that individuals have rights and obligations directly under international law.

The Nuremberg Charter and subsequent trials provided a serious limitation on the absolutist idea of sovereignty. Nazi absolutism could not provide a defense for Nazi leaders responsible for war crimes. This Nuremberg process and the growth of human rights changed the concept, if not the foundations of sovereignty, under the Charter system.

Moreover, it is currently strongly asserted that States as sovereigns have no competence to commit acts of aggression, transgress the Geneva Conventions, and its protocols or violate basic fundamental human rights. Nuremberg Tribunal held that States and sovereigns are abstractions and established the principle that State officials and leaders could be tried for criminal offenses under international law. They could be apprehended according to the principle of universal jurisdiction and tried for territorial and extra-territorial offenses against international law and breaches of fundamental moral decency. Ultimately, they could be convicted and executed (Reisman, *Sovereignty and Human Rights in Contemporary International Law*, 1990).

Thus in the aftermath of the above and more, came the prospects for creation of an International Criminal Court and thus the Rome Statute entered into force on July 1, 2002 (United Nations, 1998). This development was mainly inspired by a new international alignment of progressive States; they are the so-called 'like-minded' group of States actors. Super power support for these developments remained lukewarm or in some instances hostile. At the same time, smaller States that had much to gain from a working international rule of law concept including the protections of their political independence and territorial sovereignty given by law began exercising jurisdiction within their domestic legal processes over criminal conduct by foreign leaders deemed to be subject to universal jurisdiction. The Preamble to the Rome Statute of the International Criminal Court affirms that the 'most serious crimes' are of concern to the international community and as a whole must not go unpunished. The Preamble also indicates that the international community is determined to put an end to impunity. The central problem behind the crimes prosecuted in the Rome Statute is that these are crimes essentially against the people, or against the sovereignty established by the people.

Indeed, the crimes enumerated in the Rome Statute are designed to protect sovereignty, which is understood to be rooted in the will of the people. In other words, universal jurisdiction, in its conceptual and normative design, is an instrument for the protection of sovereignty, which is based on the human and humanitarian rights of people.

Thus, it can easily be concluded that in contemporary international law, sovereignty does not draw its essential validity exclusively from the barrel of the gun. It draws both its power and its essential legitimacy from the bottom, from the people (Reisman, *Sovereignty and Human Rights in Contemporary International Law*, 1990).

4.5. Sovereignty and Rules of Warfare and Weaponry

The formation of the rules of warfare has been based on the presupposition that, while war cannot be completely abolished, some of its most appalling consequences, for soldiers and citizens alike, should be made illegal. The aim of these rules is to limit conduct during war to minimum standards of civilized behavior that will be upheld by all parties to an armed conflict. The rules of warfare form an evolving framework of regulations seeking to restrain the conduct of parties to an international armed conflict. The rules are premised on the “dual notion that the adverse effects of war should be alleviated as much as possible (given military necessities), and that the freedom of the parties to resort to methods and means of warfare is not unlimited.” These guiding orientations and the agreements to which they have given rise mark, in principle, a significant change over time in the legal direction of the modern state; for they challenge the principle of military autonomy and question national sovereignty at one of its most delicate points – the relation between the military and the state (what it is that each can legitimately ask of the other) and the capacity of both to pursue their objectives irrespective of the consequences.

Conventions on the conduct of war have been complemented by a series of agreements on the use of different types of weapons and also agencies for arms control and disarmament (or sections within foreign ministries) now exist within all the world’s major states, managing what has become a continuous diplomatic and regulatory process (McGrew, Goldblatt, & Perraton , 2003). While the rules of warfare are, of course, often violated, they have served in the past to provide a brake on some of the more indiscriminate acts of violence. Accordingly, it is not unreasonable to claim that the international laws of war and weapons control have shaped and helped nurture a global infrastructure of conflict and armaments regulation (McGrew, Goldblatt, & Perraton , 2003) and thus halted the absolute freedom of the sovereign states to resort to all means possible in times of a war.

4.6. Sovereignty and Human Rights, Democracy and Minority Groups

At the heart of this shift is the human rights regime. three interrelated features of the regime are worth dwelling on: (1) the constitutive human rights agreements; (2) the role of self- determination and the democratic principle that were central to the framework of decolonization; and (3) the recent recognition of the rights of minority groups.

On (1): The human rights regime consists of overlapping global, regional, and national conventions and institutions. At the global level, human rights are firmly entrenched in the International Bill of Human Rights, the building blocks of which are the UN Declaration of Human Rights of 1948 and the Covenants on Civil and Political Rights, and on Economic, Social and Cultural Rights. As important in promoting human rights, if not more so, have been the multiplicity of political and international nongovernmental organizations (INGOs) that have actively sought to implement these agreements and, thereby, to reshape the ordering principles of public life.

On (2): There is a notable tendency in human rights agreements to entrench the notion that a legitimate state must be a state that upholds certain core democratic values. For instance, in Article 21 the Universal Declaration of Human Rights asserts the democratic principle along with enumerated rights as a common standard of achievement for all peoples and nations. Similarly, the 1966 UN International Covenant on Civil and Political Rights elaborates this principle in Article 25. Such commitments signal a new approach to the concept of legitimate political power in international law.

On (3): Since 1989 the intensification of interethnic conflict has created an urgent sense that specific minorities need protection (renewing concerns voiced clearly during the interwar period). In 1992 the United Nations General Assembly adopted a Declaration on the Rights of Persons Belonging to National, Ethnic, Religious and Linguistic Minorities. Proclaiming that states "shall protect the existence and national, cultural, religious and linguistic identity of minorities," the Declaration sets out rights for members of minorities to be able "to participate effectively in cultural, religious, social and public life."

Such changes in human rights law have placed individuals, governments, and non governmental organizations under new systems of legal regulation that in principle, is indifferent to state boundaries. This development is a significant indicator of the distance that has been traveled from the classic, state-centric conception of sovereignty to what amounts to a new formulation for the delimitation of political power on a global basis.

The regime of liberal international sovereignty entrenches powers and constraints, and rights and duties, in international law that – albeit ultimately formulated by states – go beyond the traditional conception of the proper scope and boundaries of states, and can come into conflict, and sometimes contradiction, with national laws. Within this framework, states may forfeit claims to sovereignty if they violate the standards and values embedded in the liberal international order; and such violations become a breach of a legal code, a breach that may call forth the means to challenge, prosecute, and rectify it.

Thus, government legitimacy that validates the exercise of sovereignty involves adherence to minimum humanitarian norms and a capacity to act effectively to protect citizens from acute threats to their security and well-being that derive from adverse conditions within a country (Falk, 2000).

5. Conclusion

Although sovereignty is, therefore, often conceived as absolute, it is clear that state sovereignty is in the process of evolving from an absolute concept of unlimited freedom and independence to a relative concept where the freedom and independence of states are limited both by the freedom of other states and by international law. Because it is increasingly recognised that there are certain communal interests that cannot be addressed independently, a growing trend of co-operation and interdependence are developing between states. The present international legal order aims to regulate social life on all levels of governance. Sovereignty can no longer be understood in terms of the categories of untrammelled effective power.

Rather, a legitimate state must increasingly be understood through the language of democracy and human rights. Legitimate authority has become linked, in moral and legal terms, with the maintenance of human rights values and democratic standards.

Several major difficulties remain, nonetheless, at the core of the liberal international regime of sovereignty that create tensions, if not faultiness, at its center. While the liberal political order has gone some way toward taming the arrogance of princes and princesses and curbing some of their worst excesses within and outside their territories, the spreading hold of the regime of liberal international sovereignty has compounded the risks of arrogance in certain respects.

This is so because in the transition from prince to prime minister or president, from unelected governors to elected governors, from the aristocratic few to the democratic many, political arrogance has been reinforced by the claim of the political elites to derive their support from that most virtuous source of power – the demos. Democratic princes can energetically pursue public policies – whether in security, trade, technology, or welfare – because they feel, and to a degree are, mandated so to do. Further, while many pressing policy issues, from the regulation of financial markets to the management of genetic engineering, create challenges that transcend borders and generate new transnational constituencies, existing intergovernmental organizations are insufficient to resolve these – and resolve them legitimately. Decision-making in leading IGOs, for instance the World Trade Organization (WTO) and the International Monetary Fund (IMF), is often skewed to dominant geopolitical and geo-economic interests whose primary objective is to ensure flexible adjustment in and to the international economy. Additionally, serious deficiencies can, of course, be documented in the implementation and enforcement of democratic and human rights, and of international law more generally. Despite the development and consolidation of the regime of liberal international sovereignty, massive inequalities of power and economic resources continue to grow. There is an accelerating gap between rich and poor states as well as between peoples in the global economy. Hence, it is hardly a surprise that liberal democracy and flourishing economic inequalities exist side by side (United Nations, 1998).

But there also exists a positive side to the current face of modern sovereignty, within the wider international community, rules governing war, weapon systems, war crimes, human rights, and the environment, among other areas, have transformed and delimited the order of states, embedding national polities in new forms and layers of accountability and governance. States are no longer regarded as discrete political worlds.

Nonetheless, in a changing world, where sovereign states must adapt in order to remain relevant, we will continue to reinterpret and redefine what it means for a state to be sovereign in an increasingly interdependent and dynamic world. In such a world, the very idea of an independent state is an oxymoron: it is perhaps more accurate to describe a state as interdependent. As we move away from the idea of the ruler as the ultimate source of sovereignty to the ruled, this helps to ensure a more people-oriented definition of sovereignty.

In this paradigm, the idea of state sovereignty as a responsibility toward the betterment of citizens does not seem at all strange.

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