Redefining Sovereignty in the Age of Globalisation

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Abstract

The rise of globalisation post-Cold-War is being seen as a challenge to the international system dominated by nation-state. Questions are being raised about the relevance of borders and the traditional concept of sovereignty. Has the Westphalian system been replaced by a global world order. Is sovereignty a redundant concept, in an era where international intervention is increasingly being accepted and non-interference in domestic affairs is being questioned on humanitarian grounds? This paper attempts to define sovereignty in the era of globalisation.

Introduction

What is Globalisation? An English princess (Princess Dianna) with an Egyptian boyfriend crashes in a French tunnel, while in a German car with a Dutch engine, driven by a Belgian who was drunk on Scottish whisky, followed closely by Italian Paparazzi on Japanese motorcycles; treated by an American doctor using Brazilian medicines. This is sent to you by an American, using Bill Gates' technology, and you're probably reading this on a computer that uses Taiwanese chips, and a Korean monitor, assembled by Bangladeshi workers in a Singapore plant, transported by Indian lorry-drivers, hijacked by Indonesians, unloaded by Sicilian longshoremen, and trucked to you by Mexican. That is Globalisation!

This is a widespread internet pun but describes globalisation quite accurately. Events in one part of the world are not confined within boundaries. It has effect on people and societies far away. Dense network of regionalized production chains in the electronics and computer industries across China and South-East Asia are the product of decisions taken in the boardrooms of major corporations in the United States. This is globalisation.(Hurrel: 2007)

States cannot insulate themselves from what goes on elsewhere. Volume, velocity and importance of flows within and across borders of people, ideas, greenhouse gases, goods, dollars, drugs, viruses, emails, weapons, and a good deal else, challenging one of sovereignty's fundamental principles: the ability to control what crosses borders in either direction. Sovereign states increasingly measure their vulnerability not to one another, but to forces beyond their control. Sovereignty is no longer a sanctuary. (Haas: 2006)

So how does one define sovereignty in context of globalisation? Does the Westphalian concept of sovereignty apply in globalised world?This paper attempts to define sovereignty beyond its traditional concept, in the era of globalisation.

Traditional definition of Sovereignty

The concept of sovereignty emerged in the sixteenth and seventeenth centuries, as a result of the development in Europe of the modern state. As the authority of transnational institutions, such as Catholic Church and Holy Roman Empire faded, centralizing monarchs in England, France, Spain and elsewhere were able to claim supreme power, and they did this in a new language of sovereignty. In the writings of Jean Bodin (1530-96) and Thomas Hobbes (1588-1679), sovereignty was used as a justification for monarchical absolutism. Bodin was the first modern writer to develop the theory of sovereignty which is an important feature of modern state. He defines sovereignty as absolute and perpetual power of commonwealth (Bodin and Franklin: 1992: 1).However, His legislator is the legislator of the jurist, not of the theologian or of the moral philosopher. The sovereign, like the subject, is bound by the law of God and of nature, but his obligation in this respect is to God, by whom it will be enforced(Dunning: 1896). This was a lurking inconsistency in his theory. This was taken up in the writings of Thomas Hobbes who developed a first full and complete statement of the theory of absolute and unlimited sovereignty of state. His sovereign was absolute, neither limited by any human authority, nor does the Law of God constitute a check upon him. The powers of legislation, adjudication, enforcement, taxation, war-making (and the less familiar right of control of normative doctrine) are connected in such a way that a loss of one may thwart effective exercise of the rest; for example, legislation without interpretation and enforcement will not serve to regulate conduct. Only a government that possesses all of what Hobbes terms the "essential rights of sovereignty" can be reliably effective, since where partial sets of these rights are held by different bodies that disagree in their judgments as to what is to be done, paralysis of effective government, or degeneration into a civil war to settle their dispute, may occur (Stanford Encyclopedia of Philosophy: 2014).

John Locke's (1632–1704)account of sovereignty is viewed in respects as a reaction against Hobbes theory. Whereas Hobbes theory absolute sovereignty has been shaped by his concern with the division of political authority and ultimately the breakdown of sovereignty during the English Civil War, Locke's own preoccupation was with the extent and limits of sovereignty. Locke's views on sovereignty are expressed in his major work of political theory- the Second Treatise of Government. For Locke, ultimate sovereignty always lies with not with the state or the king but with the people, who have merely loaned there powers to Parliament and the government of the day. The legislature, the supreme institution of the state, could therefore, in his view, be dissolved by the people any time. The state sovereignty is thus, a form of trusteeship, for the power of the institution of the state- their capacity to make and enforce laws- is held on trust, and it rests on the consent of the people(Jones: 2002: 20-22). This was political sovereignty propounded by Locke.Jean Jacques Rousseau (1712-1778) conceived of sovereignty as a property of a people as distinguished from a mere aggregate(Noone: 1970). In the Social Contract, Rousseau made people the sovereign through his theory of general will.The general will, is a part of his solution to the fundamental problem presented by the need to

quit the state of nature-[*] find a form of association which defends and protects with all common forces the persons and goods of each associate, and by means of which each one, while uniting with all, nevertheless obeys only himself and remains as free as before(Sreenivasan: 2000).The theory of general will is intimately connected with his conception of popular sovereignty. If sovereignty were located in people rather than the ruler, the theory would prove to be the most powerful weapon to fight absolutism (Suda: 2009: 171).Sovereignty for Rousseau, was inalienable and indivisible, but vested in the body politic.

John Austin formulated the theory of legal sovereignty. He defined the notion of sovereignty and political society as- If a determinate human superior, not in a habit of obedience to a like superior, receives habitual obedience from the bulk of a given society, that determinate human superior is sovereign in that society, and the society (including the superior) is a society political and independent. To that determinate superior, the other members are dependent. The mutual relation between that superior and them may be styled sovereignty and subjection (Austin: 1875: 82).Austin's identification of the determinate factor with a specified group of individuals seems indefensible, yet in insisting that sovereignty requires determinate forms of exercise he is guarding us against the error which would make generality equivalent to vagueness (Dewey: 1894).

Emergence of Westphalian System

The Greek city-state system provides one of the progenitorsfor the new Westphalian order. The city-states conducted peaceful relations with other as they contended for power- a precursor of the modern state system. Many of the Greek city-system was eventually incorporated into the Roman Empire (50- $_{B.C.}$ 400 $_{A.D}$). The Roman Empire served as the precursor for larger political systems. It is the Roman experience from which the word empire comes up. Roman philosophers provide an essential theoretical underpinning to the empire, as well as to future international relations theory. When the Roman Empire disintegrated in the fifth century $_{A.D.,}$ power and authority became decentralized in Europe. Much of Western Europe reverted to feudal principalities, controlled by lords and tied to fiefdoms. That had the authority to raise taxes and exert legal authority. Lords exercised control over vassals, the latter working for the lords in return for the right to work the land and acquire protection. Feudalism, which placed authority in private hands, was the response to the prevailing disorder. The preeminent institution in the medieval period was the church; virtuallyall other institutions were local in origin and practice. Thus, authority was centered neither in Rome or else in the local fiefdom. Economic life was also intensely local. After 1000 $_{A.D.}$ secular trends began to undermine both the feudalism and the universalization of Christianity. Commercial activity expanded into larger geographic area; all forms of communication improved; new technologies made life easier. The desire to expand economic interaction, coupled with the technologies invention fuelled a period of European territorial expansion. Individuals from Spain and Italy were among the earliest adventurers. During this age of exploration European civilization spread to distant shores. In the 1500s and 1600s, as explorers and settlers moved into the "New World", the old Europe remained unsettled.

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[*] The state before civil society came into existence. In the state of nature individual was guided by instincts of self-preservation and compassion. The individuals were subject to their will.

Parts of Europe were mired in the secular vs. religious controversy, and Christianity was torn between the Catholic and Protestant split (Mingst: 1999).

What followed this rift in Europe was Thirty Years of Religious War (1618-1648). This war was not just a religious war but also a struggle for power, a conflict over legitimate authority among several different kinds of contenders. The Papacy was certainly one of these, but one of its chief supporters, the Habsburg Empire, stood for a kind of dynastic hegemony, while the Holy Roman Emperor was less concerned with his traditional religious dimension than with his continuing hold over the many German states, which in their turn, stood for the new doctrine of sovereign independence. Holland's struggle may be regarded as an early example of a struggle to establish a state based on what was to become the dominating element of nationality. The Peace of Westphalia (1648) which ended the Thirty Years of War is regarded as a key event ushering in the contemporary international system. The peace established the right to German states that constituted the Holy Roman Empire to conduct their own diplomatic relations: a very clear acknowledgement of their sovereignty. They were also formally stated to enjoy an exact and reciprocal Equality: the first formal acceptance of sovereign equality for a significant number of states (Armstrong: 2008:46).

The sovereign states system that came to dominate Europe at Westphalia spread worldwide over the next three centuries in the mid-20thcentury, the state became the only form of polity ever to cover the entire land surface of the globe. Today, 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 (Stanford Encyclopedia of Philosophy: 2010).

Globalisation and Sovereignty

The Post-cold war order could be characterised as one where states were compelled to play by a single set of rules within an increasingly competitive world economy. The term most frequently used to describe this new order was globalisation (Cox: 20008: 74). Professor Theodore Levitt, a marketing professor at the Harvard Business School, apparently first employed it in a 1983article in the *Harvard Business Review.* Defined broadly, globalisation is the process of integrating nations and people- politically, economically and culturally into a larger community. Hyperglobalist contend that history and economics have come together to create a new order of relations in which states are either converging economically and politically or state boundaries are being made irrelevant(Farooqui: 2012: 279). From this perspective globalisation is abolishing the Westphalian system. Others took a less cataclysmic view. They agreed globalisation was providing a different context within which international relations was now being played out. But it would absurd to conclude that it was doing way with the state or destroying the underlying logic of anarchy (Cox Op. Cit.).So what is the relationship between globalisation and sovereignty?State is limited by a number of factors within its boundaries, there are number of limitation at the international level which have curtailed the capacity of modern nation-states to take independent decisions. The growth transnational organisations are being seen as shifting the paradigm of the world order defined by the peace of Westphalia. The proliferation of international and regional organisations has given the concept of global governance. The ideas like "global village",

"gloculization", "think global, act local" are gaining currency. Economic interdependence has meant events going on in other part of the world have effects across the globe. Economic sanctions, embargos do not allow states to act unilaterally within them, behind the 'veil of non-intervention in internal affairs'. The domestic policies are influenced by international happenings.

Nation-states are no more absolute, in the sense they need to cooperate and coordinate their actions with other nation-states, multilateral institutions, and regional organisations and like transnational bodies. Economic interdependence, creation of weapons of mass destruction, rampant spread of terrorism across the globe, issues like climate change has made it necessary that states come together to find solutions to these problems which are not confined within territorial boundaries. World has not yet moved beyond Westphalia (Lyons: 1995) but it is moving beyond, though very slowly. The Westphalian system was established in 1648. Globalisation gained ground after the end of cold war in 1991. A system engrained for around three centuries is difficult to be replaced with a system which is just about 24 years old. The global world order can be termed nascent, especially when compared to Westphalian order.

In this changed scenario how one does defines sovereignty? Has globalisation made borders irrelevant? Has sovereignty become redundant as concept? The answer is no.

In the Habit of Cooperation with like Superior

Globalisation is the process of heightened interaction and integration among nations and their people, government and corporations. But concluding that the world is becoming a borderless community is not true. Nation-states are still sensitive towards sovereignty. The anarchic international society is nowhere near being replaced a supranational authority. The United Nation General Assembly is not an international equivalent national parliament. Its resolution isnot binding on states. The superior (though not a determinate human, but institutions of government, at least in democracies) still receives habitual obedience from bulk of the population of a particular society and is not in the habit of obedience to a like superior. However, the veil of non-intervention in internal affairs' does not work anymore.

The sovereign, today is not absolute in the Hobbesian sense of the term but is subject to checks and balance. The check is kept not only by the population of the nation but also form the international society. The sovereignty is not an abstract will of the general populace as Rousseau propounded. The superior (though not a determinate human, but institutions of government, at least in democracies) still receives habitual obedience from bulk of the population of a particular society and is not in the habit of obedience to a like superior. However, the veil of non-intervention in internal affairs' does not work anymore. The sovereign has to be in the habit of cooperation with like superior.

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