

Advocating Sovereignty in an Age of Globalization

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1. Sovereignty, Geographical Scale, and Self-Determination

While the principle of sovereignty has come under attack by political philosophers and international jurists in recent decades, it will continue to be—and should continue to be—an important norm of international relations. However, recent changes in the scales of markets, states, and peoples require a reformulation of the principle in order to take account of these changes and address some of the problems caused by them. Among these changes in scale are the impending coalescence of the European Union (EU) into a federal state, the increasing extension of U.S. military power, and the continued development of commercial and financial globalization. The concept of geographical scale is relatively unfamiliar to philosophers concerned with international relations. Nevertheless, it is usefully employed in considering the impact of recent changes in the organization of markets, states, and peoples on the relative importance of international norms such as state sovereignty, global security, human rights, and distributive justice.

In this article, I examine sovereignty specifically and argue that, while the concept needs rethinking in light of recent scalar shifts in international relations, it nevertheless should continue to play a central role in assessing the legitimacy or illegitimacy of global political actors. Two reactions to these recent changes have been prevalent. On the one hand, a “new internationalism” has been asserted by political actors and theorists, from U.S. Senator Hilary Clinton to various philosophers of “globalization.”¹ The view regards sovereignty as an out-moded idea that is unable to meet the challenges of an increasingly interconnected world.

On the other hand, and this is the view argued for here, the international connections that are being established are seen as undermining any effective institutions of self-government—institutions inevitably built and maintained within sovereign states. While the paradigmatic case of the former view is the growth of nongovernmental organizations in the 1990s, the paradigmatic case of the latter is the war on Yugoslavia in that same period, a war perpetrated not only by local nationalist groups seeking their own nation-states, but by various international organizations of dubious legitimacy, from the World Bank to NATO. In the event, a sovereign state was openly attacked and dismembered by hegemonic states (the United States and Germany), in conjunction with secessionist movements

(Slovenian and Croatian, initially) and the above-mentioned international organizations.² Along with the U.S. interventions in the Middle East (e.g., in support of Israel and against Iraq) in the same period, these actions decisively undermined an international commitment to the self-determination of peoples, enshrined in part in the principle of sovereignty, that had been in place since the 1940s. Contrary to what some commentators had asserted at the end of the 1980s, the end of “superpower rivalry” (if that was an adequate characterization of the Cold War) ushered in, not an era of peaceful global integration, but a period of the destabilization of sovereign states and the denial of self-determination to peoples in many parts of the world.³ I argue below that the reassertion of the idea of sovereignty, suitably modified for the current period, is an important conceptual tool for resistance to this trend.

The organization of my argument is as follows. First, I discuss the critique of sovereignty in contemporary philosophy, concluding that this critique is not applicable to the norm of *external* sovereignty, and that there are still significant reasons for advocating external sovereignty as an important norm (sections 2–4). Second, using the notion of geographical scale, I formulate two criteria for recognizing states as sovereign (section 5). Third, I show how according to these criteria neither national nor imperial states could be regarded as legitimately sovereign (section 6). Fourth, I compare two new conceptions of sovereignty that I call devolutionary and federative sovereignty (sections 7 and 8), concluding that it is one (or both) of these that is most likely to set the normative agenda for our understanding of international political legitimacy in the near future (section 9).

2. The Contemporary Critique of Sovereignty

The critique of sovereignty in recent philosophy focuses on what is usually called classical or Westphalian sovereignty. Sovereignty generally denotes the idea of authority over persons or property. The classical conception, often traced philosophically to Hobbes and legally to the 1648 Treaty of Westphalia, applies the notion of absolute authority to the internal relation between the state and its subjects. For a state or ruler to have sovereignty in this sense is to have absolute authority over a territory and its inhabitants. Hobbes’ contribution was to argue that sovereignty dissolves if it does not aspire to and ultimately achieve this absolute authority—an authority that cannot be divided or alienated without being destroyed.⁴

However, there is another view of sovereignty that was inaugurated by Locke in his criticisms of Hobbes and developed by Rousseau, Marx, and more recently, Rawls. This is the idea that sovereignty constitutes the ultimate authority over a territory and its people when there is no higher arbiter or ruler, not when the scope of the authority is absolute or undivided. A corollary of this idea is that the highest authority is not a ruler or governmental institution, but the people from which the government or ruler derives *their* authority. The people, in other words, not the state, is sovereign.

Christopher Morris's discussion of sovereignty in his recent book on the state summarizes three major criticisms of the concept. First, there is the claim that sovereignty precludes divisions of power that are possible and necessary for republican or democratic regimes. Second, there is the notion that states are "morally limited," yet despite this remain, according to the sovereignty principle, the ultimate arbiters of moral authority. Third, there is the claim that since sources of authority are inevitably multiple, sovereignty is always limited, never absolute.⁵

The first criticism is normative in the sense that, if it is possible to establish a classically sovereign regime, it is nevertheless inimical to principles of republicanism or democracy that have an independent validity. So sovereignty is viewed as antirepublican and/or antidemocratic and therefore not acceptable as a foundational principle of political life. If sovereignty has any importance, it is as a second-order principle and only to the extent that it is instrumentally valuable for the realization of democratic or republican ideals of government.

The second criticism embodies a view of states as particularistic in the sense that they are interest-based, rather than principle-based, institutions, without greater normative significance. The principles of political life are regarded as being universalistic and derivative from prior moral principles. Sovereignty is regarded as enshrining the morally deficient view that the state is the locus of legal norms, constitutionally embodied, which are not susceptible to independent moral evaluation.

Finally, the third criticism is a descriptive one, in the sense that contemporary politics, and in particular, international relations, is viewed as an environment in which it is impossible for states to have enough autonomy of action upon which to base a plausible claim to final or ultimate authority. The sources of actual power, on this view, are too various for any political authority to assert with much justification that it is definitively sovereign—particularly in the current period in which the sovereign territorial state (STS) seems no longer able to monopolize authority to the extent possible in the past. Today, especially, the sources of power are so various that it is absurd to believe that states are—or can any longer be—sovereign simply because they are presumed to possess a right of final authority.

Of these criticisms, the first two are clearly inapplicable to sovereignty in general. This is so for two reasons. First, they are aimed only at the classical doctrine of sovereignty. As Morris admits, the idea of popular sovereignty is obviously immune to one or more of these criticisms, since this idea just is the notion that it is the people, not the state, that is sovereign. But this has been the predominant view of sovereignty from Locke and Rousseau to Marx and Rawls. Only if the Hobbesian view can be maintained in the face of the Lockean and other criticisms that have been made over the last three centuries, is the notion of absolute state sovereignty really an idea worth serious consideration. If Marx is right that "[d]emocracy is the resolved mystery of all constitutions,"⁶ then the

idea of absolute state sovereignty is a nonstarter. But it is also not synonymous with that of sovereignty *per se*—and this is the point.

The key idea here is the notion that states are distinct from peoples and it is peoples that are sovereign. This is an idea that has had currency since Rousseau at least (Locke is a somewhat more ambiguous case). But it is a distinction that is still worth emphasizing. The difference is between the (classical) view in which the people are subjects of the state (which is sovereign) and the view that the state is an instrumentality of the people (which is sovereign)—one that may be useful for realizing a people's goals or purposes, but that has no authority independent of such a role. A contemporary example of this latter view is John Rawls' treatment of international law as the "law of peoples"—not states. Rawls' reason for doing this was that traditional (or classical) sovereignty gave the state an autonomy from the people that was unwarranted; the task was to understand sovereignty in such a way as to "deny to states the traditional rights to war and to unrestricted internal autonomy."⁷ So the ideas of division of powers and the moral justification of laws are not notions that can be used to criticize the idea that the *people* are sovereign, since they are in fact themselves means by which peoples establish their sovereignty over states.

Second, and more importantly for my purposes, the critique of sovereignty obscures the difference between internal and external sovereignty. This is critical because, as Morris admits, external sovereignty *just is* the idea that there ought to be constraints on state actions—for instance in their right to wage wars on other states. Sovereignty, regarded as a principle of relations between states, is definitely not the idea that states—or indeed even peoples—ought to have unlimited authority.⁸ While this conclusion may seem paradoxical, it is not, as Maurice Hinsley pointed out in his classic treatment of sovereignty. This is because the idea that there is a sovereign authority in one community implies that there are such sovereign authorities elsewhere as well: "a state which claims to be free of limit and control within its community is bound in logic to concede the same freedom to other states in theirs."⁹

Again, this is not just true of states—but of peoples as well. Internationally, peoples do relate to one another largely through the medium of states. But the legitimacy of states is dependent on their foundation in the sovereignty of the peoples whose instruments they are. This theory of popular sovereignty begs two important questions—neither of which can be treated with any thoroughness here, since they would lead us away from the main point of this essay—the case to be made for advocating sovereignty.

One question is the classic one of defining the nature of a people. The other is the question of when a state can be said to be subject to popular sovereignty and when it is not. The first question is usually understood in terms of the concept of nationality; the second in terms of the concept of democracy. For now, a people can be stipulatively defined as a group of geographically contiguous persons that have united together through some political mechanism (such as a constitution)

to form a government. This is *not* to say that a people is a nation (and what *that* is will be briefly discussed below); but it is to say that a people must form a community that is geographically and historically specific and involves philosophical commitments to some common principles.¹⁰

The second question can be put more easily to the side, since we are dealing here with external sovereignty. A people's relation to its government is a central and thorny problem for political philosophy; but in considering relations between states, a government may be said to represent a sovereign people if that government includes some *consultation procedure* by which people may direct, influence, or otherwise control that government.¹¹ This purposely loose definition is designed to ensure that relations of internal sovereignty do not become subject to external evaluation and judgment (by other peoples). This would, just as surely as a tyrannical regime, be a means of denying a people its sovereignty.

So sovereign *peoples* limit the authority and determine the legitimacy of states. While internationally this means less than it does internally (because states as the instruments of peoples are what usually interact internationally), it is important to remember because it indicates that the authority of states is not absolute and unrestrained. And states that can be considered sovereign as a consequence of this are nevertheless subject to ethical and legal constraints externally (such as prohibitions against violating other states' autonomy)—this is in fact the very purpose of the (external) sovereignty principle, to ensure that states do not act to violate each others' autonomy. This may not exhaust the constraints to which states are subject; but for present purposes, the important one is the prohibition on the use of force against other STSs.

Yet, the third criticism remains: internally sovereign peoples (and externally sovereign states, by extension) *are* restricted by various international actors—states, corporations, nongovernmental organizations, and so on—and therefore, may not be, in a factual sense, truly sovereign. On the one hand, this is increasingly the case if the so-called process of globalization makes the territorially based decisions of states ineffective in dealing with economic or environmental problems, for instance, that operate on a wider scale.¹² On the other hand, sovereignty is also lost inasmuch as the norms embedded in international law—paradigmatically, those of human rights—are applied universally, without consideration for the autonomy of STSs.¹³

3. Sovereignty and Globalization

At this point, some may be tempted to suggest that, however undesirable a world without sovereign peoples may be, it is nevertheless becoming the world in which we live. Sovereignty, viewed in this light, is an anachronism—however desirable it may have been as a means of instantiating and protecting popular self-rule in an earlier era. But it is important to remember a point that Hinsley makes about what external sovereignty is not, as well as what it is: it is not the idea that sovereign communities have unconstrained freedom of action in relation to other

international actors. It is, rather, the idea that there is no “superior authority” over such communities.¹⁴ The external sovereignty doctrine suggests that, while sovereign states may be constrained by various conditions and circumstances of contemporary international politics, they are not legitimately subject to any higher global authority.

This is not to say that it is not possible to normatively evaluate the actions of sovereign states in terms of certain higher-order principles that are applicable globally. But attempts to instantiate such principles in actual political institutions run up against what might be called a *paradox of sovereignty*: the rejection of *state* sovereignty only has political efficacy to the extent that some form of *suprastate* sovereignty is created in its stead. Otherwise, global principles of justice or rights find their instantiation within STSs, and in accordance with their internal constitutions (or by modifying them appropriately). Sovereignty, in other words, is logically correlative to the assertion of any *political* norms or principles, since such norms cannot be realized without a political community that has the autonomy and authority to enact such norms. This is not to say that *moral* norms of a universal (i.e., global) character cannot be made applicable. But these have a very different character, and are not meant to be principles of the type that can be realized directly in political institutions (such as constitutional governments).

The real question here is not whether this paradox of sovereignty can be avoided, but whether sovereignty is something that can be a feature of political entities other than STSs. This raises a question about the scale of sovereignty: Is the principle something that is (potentially) embodied at different geographical scales—or is it essentially a feature of STSs alone (here, such states can be defined as independent governmental institutions ruling over a geographically contiguous land and people)? This is both a general and a specific question: the general one is about on what scale sovereign communities could exist, while the specific one is about whether the world as it is today has restricted the possible scale of sovereign communities, due to processes of economic, political, or cultural “globalization.” An answer to the general question was first given by Aristotle in his *Politics*. There, he argued that a state requires a population and territory sufficient to maintain a self-sufficient community; one that is too small or too large will make self-sufficiency, an important criterion of the good life, impossible.¹⁵

The specific question is therefore about what the possible scale of a self-sufficient community is today. A common view is that they can only be what are called nation-states (a misnomer which I will discuss below), or what I am calling here STSs. If such states are today greatly weakened by the forces of globalization, then the principle of sovereignty is correspondingly no longer applicable as a norm of international relations. But it is not clear that the sovereignty principle is necessarily tied to the scale of the STS. As the geographer Neil Smith points out, city-states, imperial states, and other forms of political community have not only been historically commonplace but have existed and often flourished in the Westphalian world within which sovereignty is a paramount international norm.¹⁶

Furthermore, there is no clear line between the territorial (or “national”) and the global scale.

First, the global scale is in itself variable—it is not simply a synonym for planetary scale, but a changing measure of the limits of the “World-Island,” as the influential geographer, Halford Mackinder, called it.¹⁷ Mackinder used this term to make the point that a “world” is always a part of a planet, never the whole of it. Anything existing on the global scale—governmental or nongovernmental organizations, markets or trading associations, communication networks—have always had limits, boundaries, or excluded areas, whether it be territories or localities not governed, not participating, or not reached by these different “global” entities. The idea that something—a state, a market—can have absolute and total *planetary* scale has been and remains illusory.

Second, the process of globalization is in itself largely a process of the transposition to a much greater scale of the values and institutions of one or more STSs. As Smith writes of globalization, “the major contest concerns whose national norms—cultural, economic, political—get to become the basis of the new globalism: who gets to be more equal than others in the world market.”¹⁸ This means that there is no invariant demarcation between STSs and political entities at other scales. Moreover, such states can sometimes “scale-jump” from, for instance, the local or territorial to the regional or even global, given changes in their fortunes (increases in wealth, political or military successes, and so on).¹⁹

4. The Good(s) of Sovereignty

Given this indeterminacy of the scale of sovereignty, and the historical changes that have made scalar shifts a prominent feature of international politics today, many philosophers have seen fit to discard the concept of sovereignty as a vestige of an early modern state system that now lacks justification. But this temptation should be resisted because it ignores or downplays the positive goods that are implicit in a principle of sovereignty. Furthermore, the assumption that a system of international law (or criteria of political legitimacy) based solely on more universalistic principles—such as those of distributive justice or human rights—is desirable (not to say, possible) requires examination and critique. The task of reconceptualizing sovereignty in the face of the increasingly globalized world of the early twenty-first century is a task that should not be avoided.

So, what are the positive goods that sovereignty realizes—and that constitute reasons for advocating sovereignty in the twenty-first century? There are at least three such goods; they may be designated as the goods of *collectivity*, *locality*, and *democracy*. *Collectivity* refers to those goods that can only be procured collectively. The atrophy of sovereignty (e.g., in parts of the world where there are “weak states”) has often led to the weakening or even disappearance of public goods such as education, mass transport, welfare, or health care. Without a collective agency capable of mobilizing resources (e.g., through taxation) for these goods, persons and peoples are left to satisfy needs for these goods individually,

if at all. Reliance on “market mechanisms” (or on charity) is one result of this lack of sovereign bodies that can meet such needs.

Locality refers to the ability of peoples to preserve particular ways of life, or to devise and construct singular institutions of various sorts, distinct from those of other countries. Without sovereign states that can provide the protection and autonomy necessary to shield such efforts from regional or global pressures—economic, political, or cultural—it would be hard (often impossible) to preserve or extend local ways or practices.²⁰ Finally, *democracy* is essentially an attribute of sovereign governments and their decision procedures, which imply the existence of a civic solidarity within a territory and among a people.²¹ Other types of political entities that do not rely on sovereign entities—such as international or nongovernmental organizations—are invariably nondemocratic, since they lack a *demos*, a people, that can make the appropriate decisions about use of resources, political initiatives, and the like. To give up sovereignty, in other words, is also to give up the possibility of political self-determination and to rely, instead, on the morally-based imperatives of nondemocratic organizations that may, or may not, take decisions in the best interests of peoples (and of which peoples, we might ask?).²²

To substitute for these goods of sovereign communities, the idea of an international community based on universalistic moral values—a global village, as some have called it—is to substitute a chimera for a flawed, but realizable ideal.²³ In addition, it is not by any means clear that a moral “scale shifting” to the global, or transnational, level results in a definitive ethical gain. The existence of transnational networks based on supposedly universal or cosmopolitan values is not necessarily normatively preferable to the particularistic solidarities of sovereign communities.²⁴ As Seyla Benhabib has pointed out, fundamentalist and terrorist groups espouse universal values and operate via transnational networks, just as much as humanitarian or environmental organizations do.²⁵ It must be added that such ideologies themselves are reactions to the effects of multinational corporations and imperial-hegemonic states operating on a global scale. In other words, capitalism and imperialism embody cosmopolitan norms, as well.

That said, it remains to do more than simply reaffirm the traditional doctrine of state sovereignty. According to some, that doctrine has been a contributor to ethically questionable aspects of international relations, from its being used as a justification for war to its invocation as a reason for ignoring prevailing international standards of political legitimacy, human rights, and environmental sustainability. Furthermore, it is apparent that, given the prevalent interpretation of the sovereignty principle—as exclusively justifying the “nation-state” (or STS, as I prefer to call it)—it does seem increasingly inapplicable in a world of hegemonic empires (e.g., the United States), prosperous city-states (Singapore), emerging federations (the EU), “failed states” (Somalia), and ethnic principalities (the successor states to Yugoslavia).

I therefore justify advocacy of sovereignty as an ethically relevant principle below in two respects. First, the principle is more critical and normative—indeed,

utopian, in some sense—than it is commonly thought to be. It can, in other words, be used as an evaluative principle that is critical of some prevalent forms of domination and inequality in international politics. Second, the principle needs rethinking to the extent that the flawed conception of the “nation-state” need no longer be the assumed locus of sovereignty. As mentioned above, the geographical scale of the STS is variable (within limits), and it is in the criteria for its legitimate variability that there lies the path toward a renovated and robust concept of sovereignty for the future. The first step is to identify the normative foundations of the principle through the specification of criteria for legitimately according sovereignty to states.

5. Criteria for a New Conception of Sovereignty

So, in the changed conditions of our world, what are the criteria by which we can determine the appropriate scale for sovereign communities? I will suggest two such criteria; then, in subsequent sections, explain why they exclude two prevalent forms of the state (nation-states and imperial states) and evaluate the two models for sovereignty mentioned above in light of these criteria. I am going to call the two scalar criteria for sovereignty the *democratic criterion* and the *liberal criterion*. The *democratic criterion* is that for a political community to be externally sovereign, it must be scaled *to allow for the internal sovereignty of a people*. The *liberal criterion* is that a legitimately sovereign community must be scaled *to recognize and tolerate other sovereign communities*, including those with different political regimes and principles. These may seem obvious and easy criteria, but they are not.

Two general comments regarding these criteria are necessary. First, it may not be apparent in what sense they are scalar criteria. While the idea of regarding democracy, for instance, as dependent on particular configurations of classes or other social strata has become a commonplace one, the notion that viable democratic government requires an appropriate geographical scale is not. Yet, scale certainly affects the ability of governments to operate effectively as democracies, as historical and contemporary examples from the United States, Europe, and Africa, among other regions, show.²⁶ While the relative significance of, for example, class and scale will vary across different countries, recent geographical research has shown the importance of scale in determining the extent and viability of self-government in a number of instances.²⁷

Second, in referring to the idea of popular sovereignty, the concept of a people must be specified to some degree. Otherwise, if a people can be defined arbitrarily, then who has the right to claim sovereignty becomes indeterminate. Standard alternatives are the territorial definition—in which a people is the population of a contiguous area, and the national definition—in which a people is a politically self-conscious group that shares some ethnic characteristics. In the first case, the territorial definition is not a sufficient one, since the scale of the contiguous area can vary so widely: Who is to be included and who excluded is not

easily specified. In the second case, the essentialist idea of a national group vitiates the definition, because it excludes any specification of a people that is not homogeneous—and most are not. Peoples are neither any group that inhabits a contiguous area nor every group that has a homogeneous identity.²⁸

What is required for specifying the definition of a people is, to return again to Aristotle, some sense of the scale (of both territory and population) at which a good life is possible. The most minimal definition of a good life, from Aristotle to contemporary environmentalism, is self-sufficiency (or sustainability, in current discourse). So a people is *the population of a territorially contiguous country, at a scale appropriate for a self-sufficient life*. The question now is what this scale can be, and it is the purpose of the two criteria mentioned above to answer this question.

In the first case, the democratic criterion is significant because not all scales of political community are amenable to popular self-rule. Certainly this is true of imperial regimes; to take only ancient examples, the increase in scale of the Roman state was an important factor in the end of the republic. But, as Philippe Schmitter has pointed out, it is not even clear whether what he calls “sovereign national states” are democratically legitimate.²⁹ Certainly they do not meet the original criterion of democracy—(direct) rule by the people. But they also may not meet more recent criteria—“a significant degree of autonomy and a significant commonality of identity” of a people—since such states vary so widely in scale.

While both the small scale of democracy favored by the ancients and the global scale favored by “cosmopolitan democrats” seem to be ruled out on grounds of practicability,³⁰ Schmitter takes the view that there is no necessary difference in kind between presently sovereign states such as the United Kingdom and putatively sovereign communities such as the EU. In either case, a capacity for popular self-rule is in part determined by the geographical scale of those communities. The appropriate scale includes small regional states encompassing a distinct region (such as a city-state), larger states encompassing a people that is engaged in a self-sufficient way of life, and those states that lie somewhere in between.

The second, liberal, criterion suggests that a sovereign state, people, or community must be capable of recognizing other such communities as sovereign. This can be understood in at least two ways. On the one hand, it is consistent with the practice of international law in accepting a world of sovereign states, regardless of their internal constitutions. On the other hand, it can be regarded as a principle of toleration—and this is how Rawls, in his controversial argument for the toleration of “nonliberal peoples,” puts it. Rawls argues for such toleration—even of undemocratic and inegalitarian regimes—in terms of consistency with the bedrock liberal principle of toleration. But it may also be maintained, as it is by Hinsley, that sovereignty is meaningless if it does not entail the acceptance of other sovereign entities, whatever their internal arrangements. The argument is that a claim to sovereignty is essentially a limited one, and is to be acknowledged only as a claim to authority over a geographically limited territory and popula-

tion. The limitation is at the same time a recognition of reciprocal rights of other sovereign peoples over their territories and populations. If the recognition is not reciprocal, then it is a recognition not of authority, but of power (hegemony)—a recognition that, if a people is not explicitly coerced, it nevertheless acknowledges the possibility that it could be in the future.

There are of course limits to toleration—for instance, that sovereign communities must be *capable of* popular self-government (even if they do not presently have it). But the idea of toleration becomes a scalar criterion when it is applied to states that are by nature predisposed *against* recognition of others. Again, empires provide the classic example. As will be suggested below, imperial regimes *by definition* recognize no limits to their hegemony; and therefore neither recognize the sovereignty of other states nor claim themselves to be sovereign (except, perhaps, internally, against “enemies” of the regime). In general, hegemonic states—those that extend beyond the scale of a contiguous territory (or those for which the territory is continental or even transcontinental)—will only *contingently* recognize such enemies (whether external or internal) that they are, for the moment, unable to control.³¹ I would argue that this is not simply a historical generalization (though it is that), but also an essential characteristic of political hegemony (as I will argue further below).

But there is at least one other prominent example of a type of state that violates the liberal criterion—that of the nation-state, strictly defined. Since nation-states in this sense are states that have homogeneous populations, at least in terms of their ethnic identity, such states will refuse to recognize—and even act positively to undermine—states that are heterogeneous. This is especially true if such states contain groups that are ethnically related to the inhabitants of a neighboring nation-state (e.g., Yugoslavia and Albania, or Cyprus and Turkey). The homogeneity that is at least a normative feature of nation-states therefore provides a reason to violate the liberal criterion. Like the hegemonic state, though, the nation-state is not just contingently hostile to (particular) STSs, but is essentially inconsistent with the principle of external sovereignty.

6. Why Nations and Empires Undermine Sovereignty

It is these inherent aspects of both the nationalistic and the imperialistic conceptions of the state that demonstrate the need for a new conception of sovereignty, aside from the historical evidence that such states are often hostile to the autonomy of (particular) STSs. The upshot is that any reconceptualized notion of sovereignty should *not* accord sovereignty to either nation-states or empires (whether *de jure* or *de facto*). The legal and diplomatic implications of this view are not the subject of this article, though a couple of thoughts on these implications will be offered below.

Taking the *idea* of the nation-state first, it can be maintained that this very idea is inimical to the conception of a sovereign *territorial* state. While, as I have

maintained above, territoriality is not a *sufficient* definition of sovereignty as such, it does continue to be a necessary condition for it. Yet, from the nationalist perspective, it confers no general rights of sovereignty on political communities. This is because, while nationalist theory *assumes* a right to territory on the part of national groups, it does not define such groups *in terms of* territorial contiguity. National identity is a function of ethnic consanguinity, not territorial contiguity. Rights to authority over a given territory are *conferred* by ethnonational identities, rather than territoriality being a constitutive feature of the identity of a *people* (not nation), as is the case in traditional international law.³²

What this means for conceptions of sovereignty is the following: nationalist ideology provides reasons for destabilizing STSs and exacerbating territorial conflicts, since the basic desideratum is one of reconfiguring states along ethnonational lines—“one nation, one state.” This is to say that nation-states often, and perhaps inherently, violate both of the sovereignty criteria stipulated above. The democratic criterion is violated in all those cases in which the populations of heterogeneous states must be “reallocated” in order to achieve the necessary homogeneity for a nation-state. The liberal criterion is traduced when existing nation-states take actions to consolidate their national groups within one state by violating the sovereignty of neighboring states.³³

Nation-states, in short, are not STSs in the sense that they both seek recognition of their sovereignty and recognize other states’ sovereignty on the basis of their territorial integrity, among other criteria. Territoriality is not, as such, a normative consideration for nationalists, since national identity trumps it every time (except in certain cases, perhaps, for prudential reasons). While the idea that nation-states are not sovereign *because* of their status as nation-states may seem a strange idea, there are precedents for this in recent international relations. Above all, the idea that states, in order to obtain recognition internationally, must respect the rights of minority groups within their borders is just such a precedent. Whether this criterion is used by the EU for the determination of membership or by the United Nations (UN) for the purposes of enforcement of human rights, it is indicative of an emerging consensus about the illegitimacy of nation-states as such. The notion that a state cannot claim recognition (that is, is not sovereign) if it imposes discriminatory conditions on its national minorities or supports nationalist groups in neighboring states that seek to violate their territorial integrity through secession has increasingly become a commonplace of recent international law.

The significance of refusing to accord sovereignty to nation-states is yet to be determined. While there are few nation-states in fact throughout the world, there are some that seek to create such a state of affairs, through discriminatory or aggrandizing policies. Lack of recognition of such states (e.g., the Turkish Cypriot “state” or an “independent” Kosovo) certainly does not amount to a granting of permission to STSs for interventions or sanctions. But it should certainly mean according a different status to states that discriminate, secede, or otherwise violate the two sovereignty criteria proposed above.

Imperial states are a second example of a type of state that cannot be regarded as truly sovereign, in the sense that they violate the two sovereignty criteria. Can the idea of an imperial or hegemonic state as the sole (sovereign) community be justified? There is a history, from late antiquity to the seventeenth century, of regarding imperial regimes as sovereign. But the conception of sovereignty does not accord with the criteria given above: It is a view of sovereignty in which there is only one sovereign (state)—that is, in which the external sovereignty of the empire (as well as its internal sovereignty, no doubt) is absolute. As Hinsley wrote of the Roman empire, it associated “empire and sovereignty in accordance with which the Emperor was the lord of lords or of all the world—was the sole sovereign in relation to a single universal law. Other states were known to exist, of course . . . But the imperial version of sovereignty theory was not adjusted to the problems which arose from relations with them . . .”³⁴ Certainly, Rome is but one example (the Ottoman and Chinese empires also come to mind) of imperially scaled states that didn’t recognize a principle of sovereignty in theory and that violated any such principle, were it to exist, in practice.

But in a world of STSs, the notion of a sole sovereign entity would seem to be a nonstarter. Nevertheless, the existence of a *de facto* empire (or hegemon) in the United States since the end of the Cold War has given a new impetus to the attempt to reinvent such a notion. Lea Brilmayer has offered what may be the best justification for according sovereignty to an imperial-hegemonic state in her 1990s book, *American Hegemony*. Brilmayer’s argument is that a true hegemon creates a situation in which there can only be a question of *internal* sovereignty (or legitimacy), since all regimes are now “inside” the empire. States no longer exist in “horizontal” relations with one another, but in a “vertical” relation to the hegemonic power, much as citizens exist in such a relation to their government.³⁵ This means that there is a need for “political morality” on the part of the hegemonic power; but it also means a greater opportunity to exercise political morality, since with hegemony comes responsibility.³⁶

This is a clever attempt to argue for a different means of confronting imperial power; but it does not solve the scale problem because it does not directly acknowledge it. As geographers such as Peter Taylor and Neil Smith have pointed out (following Mackinder to some degree), global-imperial states are never actually universal states—there is always an “outside” with which empires (even as sweeping a one as the United States today) have relations. But these relations take on a certain character—generally that of unending conflict—because imperial sovereignty does not recognize other sovereign peoples or communities. Benhabib puts this trenchantly when she contrasts empires with democracies. Democracies require territorial “closure” because a regime must be accountable for its laws to a specific people. Empires, on the other hand, extend their “universal” legislation as far as their power extends: “*Empires have frontiers; democracies have boundaries.*”³⁷ Empires can neither instantiate an internal sovereignty of a people nor recognize the external sovereignty of other peoples.

7. Devolutionary Sovereignty

Now we can consider two possible forms of legitimate sovereignty, which I have called devolutionary and federative. The concept of devolutionary sovereignty can be considered to be non- or antihegemonic in the sense that it accords greater legitimacy to STSs to the extent that they are scaled to encompass self-sufficient populations and territories, but *no more than that*. While the scale of self-sufficient countries is variable, its variability exists within limits. The limits, as discussed above, range from the city-state to the territorially contiguous state, united by a similar environment (or, in some cases, complementary environments). This conception of sovereignty is one that does fulfill the two criteria mentioned above to the extent that it is embodied in states of modest scale that have neither the ambition, nor having the ambition, the capability, to override others' external sovereignty to any considerable degree. Further, such states, even when ruled by dictatorial regimes, have a *capacity* for popular self-rule, because they exist on a scale that allows for institutions that can embody the autonomy and commonality of a people. Nation-states limit self-rule to members of particular national groups, while hegemonic states require elitist regimes of different sorts (from tyrannies to oligarchies) to maintain cohesion. STSs, on the other hand, to the extent that they devolve sovereignty to an appropriate scale, can facilitate the establishment of institutions of popular self-rule, since there are neither restrictions on membership in terms of ethnonational identities, nor limitations on self-government as a result of the heterogeneity and dispersion of peoples within the state.

What would it mean for sovereignty to be accorded on a devolutionary basis, with STSs being regarded as sovereign, while national or imperial states are not? As briefly discussed above, there are already precedents for denying sovereignty to nation-states that engage in discriminatory practices. But what about imperial-hegemonic states, such as the United States—what would it mean to deny them sovereignty? If a devolutionary conception of sovereignty were adopted by international bodies, such as the UN or the World Court, it might mean that such organizations would take on some of the characteristics of the nonaligned movement during the Cold War, in the sense that hegemonic states would be excluded from membership. Though this may seem a radical and perhaps quixotic idea, it should be remembered that the United States, for instance, has refused to acknowledge the jurisdiction of the World Court (or now, the International Criminal Court) in various cases. In addition, it has either bypassed the UN in taking major actions that violate international law, or insisted (and usually obtained) UN approval of such actions, if only belatedly—for instance, as in the case of the recent Iraq war. The ability of imperial states to either coerce international bodies into accepting illegal actions or to ignore their censure when it (rarely) occurs, suggests that their membership in such bodies does more harm than good to the institutionalization of a rule of law internationally. According sovereignty—and consequently, international legitimacy—only to nonhegemonic states in accordance with the

devolutionary understanding of the principle would enable sovereignty to be accorded in a more consistently and openly critical fashion. Allowing hegemonic states to claim the same rights as nonhegemonic states in fact enshrines and legitimizes the *inequality* and injustice of the current international order by overlooking the patently obvious power imbalances between imperial-hegemonic and nonhegemonic states—or, as Marx put it in a different context, “It is, therefore, a right of inequality, *in its content*, like every right.”³⁸

Such a change in the interpretation of the principle of sovereignty would certainly entail a major reform of international law.³⁹ Reconceptualizing sovereignty as devolutionary would be a means of according it only to those states that were actually capable of and interested in embodying and respecting the principle. It is possible that doing this would provide new legitimacy to those seeking to challenge the hegemony of powerful states in the international order. But at least it would more clearly define the wrongfulness of imperial-hegemonic attacks on STSs and enshrine the goods denoted by the sovereignty principle more centrally in international law. An added benefit might be a broader appreciation of the appropriate scale at which states can achieve goals of economic sustainability and environmental security that are unrealizable by ethnonational statelets or imperial hegemon.⁴⁰

8. Federative Sovereignty

The second conception of sovereignty that fulfills the democratic and liberal criteria specified above is the concept of federative sovereignty. The idea of a federation—of which the EU is the contemporary example that has occasioned the most commentary—is of a state comprised of a number of units that are potentially STSs themselves, but which has superseded its constituent units in terms of foreign relations. Federative sovereignty is nevertheless distinguished from other presumably federal systems (the United States, India) in that the subunits retain a substantial degree of internal sovereignty and, moreover, have the right to approve or disapprove policies applicable to the whole state.

Federations in this sense exist on a much larger scale than STSs, though they need not be continental, as is the EU. Federations meet the democratic criterion for sovereignty because, while they can have a scale equivalent to imperial states, the devolution of power embodied in the federative model allows for popular forms of government. Federations also meet the liberal criterion, since their internal divisions prevent the cohesion necessary for mobilization to take aggressive or aggrandizing actions against other states. But, even if this is so, what is the justification for establishing a federative state on a greater scale than traditional STSs? Possible justifications concern the relations that such federative sovereign states would maintain either internally between their constitutive substate units, or internationally with other states. In either case, the argument is that the federative model is necessary to maintain peace and order—both internally, within the region encompassed by the state (e.g., Europe) and/or externally, between the federative state and other similarly scaled states (e.g., the EU and the United States).

The argument concerning internal sovereignty relies on the idea that the federative unity of a large-scale state will provide the means of enforcing internal peace and order—something that is of particular importance in regions with extensive historical experience of war, such as Europe. But there are two problems with this justification of federative sovereignty. First, the way in which the STSs are federated may either fail to create the necessary unity to form a lasting political community or it may create it in such a way that it engenders new oppositions that immediately begin to undermine this unity (and the social peace and harmony that are the supposed benefit of the new federative structures).

This may be seen with reference to the development of the EU so far. Benhabib points to three ways of creating a lasting European “superstate”: a “Euroskepticism,” in which a skeptical attitude toward federation means that member states retain most real authority; a “new imperialism” in which the conditions for “civic solidarity” are constructed at the expense of republican and democratic institutions; and a “new medievalism” in which the principle of “subsidiarity” determines the scale of institutions in accordance with the people most affected by them.⁴¹ While the first option may fail to produce the necessary unity for a European political identity, the second may engender so much opposition—on democratic and egalitarian grounds—that it too will lead to a devolution of authority back to STSs.⁴² Even if this does not happen, the federative state may end up attempting to create a quasi-hegemonic state structure, thereby abandoning the federative model that constituted its only justification of sovereignty. It is admittedly a vexing problem for those committed to the federative model of sovereignty such as the EU may embody to meet what Jürgen Habermas calls the “demanding preconditions” for political identity.⁴³ But if these preconditions are not met on the basis of the subsidiarity principle—the only truly federative ideal—the new European state will fail to meet the criteria for sovereignty suggested above just as surely as the imperial U.S. state does now.

In any case, the idea that federative sovereignty is justified on the basis of a need to maintain *internal* peace and order within an area or region suggests that federation is the only way to do this. But this is not so; as Étienne Balibar has maintained, for instance, another hegemonic state could serve this role just as well—as the United States has supposedly done in Europe since 1945.⁴⁴ So what may really justify federative sovereignty—the second possible justification—is the notion that a federative state—much more than any particular STS—can serve as a counterweight to imperial-hegemonic states, precisely because the federative state can exist at a much greater scale than a STS, a scale comparable to that of an empire. To put this in the European context again, what it is that justifies the EU is not its capacity for defusing and peacefully resolving intra-European conflicts, but its ability to restrain the aggressive tendencies of the United States globally.

But to view federations as playing this role is to give them a status similar to that of “great powers,” potentially hegemonic states with imperial ambitions. A crucial question about potentially sovereign federative states such as the EU is whether they can achieve the requisite internal political identity without at the

same time acquiring hegemonic ambitions on the global scale. So if the EU finds its political identity by clearly opposing the United States' global imperial agenda through the abolition of NATO and the expulsion of U.S. forces from Europe, will this be a gain for international peace and security? Or will it signal a new round of great-power rivalry, eventuating in the daunting possibility of renewed conflict between quasi-hegemonic states on a global scale?

9. Sovereignty and International Conflict

The reconceptualization of sovereignty does not, in and of itself, provide new reasons for advocating such a global-scaled conflict between imperial-hegemonic states without a legitimate claim to sovereignty and federative states, seeking to defend the rights of sovereign states globally. For one thing, the imminence of such a conflict would signal the bankruptcy of the federative conception of sovereignty: it would mean that the federative idea is doomed to become nothing more than a new justification for "great powers" and their "rights" in the international system.

But there is nothing at this stage to indicate that this is the only possibility with regard to the federative idea of sovereignty. Another possibility, however, may prove more tempting: The idea that STSs should "devolve" by "scale shifting" to a world in which smaller—but still self-sufficient—states claim *their* rights in contradistinction to globally ambitious hegemons. The problem with the devolutionary conception of sovereignty is its apparent unrealizability: How can STSs scale shift without giving up whatever protection against such hegemonic states (and corporations) they have managed to construct? There are two answers to this question: First, that the ability to be self-sufficient is in itself a powerful protection against susceptibility to coercion by others. But second, it is not by any means impossible, though it may seem unlikely at this particular moment, that such devolutionary sovereign states may unite in a "nonaligned" or "anti-hegemonic" movement for mutual assistance and protection. Certainly there are historical precedents, though with variable degrees of success. Either way, the problem of constructing a new type of sovereignty that can contribute to the creation of a more peaceful world will rightly continue to set the political agenda for much of this century.

Notes

¹ See Carol C. Gould, *Globalizing Democracy and Human Rights* (Cambridge: Cambridge University Press, 2004), esp. chaps. 7–9, 11, for a discussion of this view. For a different perspective, see Omar Dahbour, "Three Models of Global Community," in *Current Debates in Global Justice*, eds. Gillian Brock and Darrel Moellendorf (Dordrecht: Springer, 2005), 201–24.

² On the significance of the Yugoslavian wars of the 1990s, see Susan Woodward, *Balkan Tragedy: Chaos and Dissolution after the Cold War* (Washington, DC: Brookings Institution, 1995); Catharine Samary, *Yugoslavia Dismembered*, trans. Peter Drucker (New York: Monthly Review

Press, 1995); and Diana Johnstone, *Fools' Crusade: Yugoslavia, NATO, and Western Delusions* (New York: Monthly Review Press, 2002).

³ On an early synoptic view of this period that makes the case for viewing these two aspects of "globalization" as complementary, see Peter Gowan, *The Global Gamble: Washington's Faustian Bid for World Dominance* (London: Verso, 1999).

⁴ Christopher Morris, *An Essay on the Modern State* (Cambridge: Cambridge University Press, 1998), 178.

⁵ *Ibid.*, chap. 7 passim.

⁶ Karl Marx, *Critique of Hegel's "Philosophy of Right,"* trans. Joseph O'Malley (Cambridge: Cambridge University Press, 1970), 29–30.

⁷ John Rawls, *The Law of Peoples* (Cambridge, MA: Harvard University Press, 1999), 27.

⁸ Morris, *Essay on the Modern State*, 226.

⁹ M. H. Hinsley, *Sovereignty*, 2nd ed. (Cambridge: Cambridge University Press, 1986), 158.

¹⁰ For further discussion of this issue, see Omar Dahbour, *Illusion of the Peoples: A Critique of National Self-Determination* (Lanham, MD: Lexington Books, 2003), chap. 2.

¹¹ On the idea of a consultation procedure, see Rawls, *Law of Peoples*, 71.

¹² Jürgen Habermas, "The Postnational Constellation and the Future of Democracy," in *The Postnational Constellation: Political Essays*, trans. Max Pensky (Cambridge, MA: MIT Press, 2001), 70.

¹³ Seyla Benhabib, *The Rights of Others: Aliens, Residents, and Citizens* (Cambridge: Cambridge University Press, 2004), 12.

¹⁴ Hinsley, *Sovereignty*, 226.

¹⁵ Richard McKeon, ed., *Basic Works of Aristotle* (New York: Random House, 1941), 1284.

¹⁶ Neil Smith, "Contours of Spatialized Politics: Homeless Vehicles and the Production of Geographical Scale," *Social Text* 33 (1992): 73–74.

¹⁷ On Mackinder, see Peter Taylor, "Unity and Division in Global Political Geography," in *Companion Encyclopedia of Geography: The Environment and Humankind*, eds. Ian Douglas, Richard Huggett, and Mike Robinson (London: Routledge, 1996), 223–24. Cf. Smith, "Contours of Spatialized Politics," 76, on the variability of the global scale.

¹⁸ Neil Smith, "Scale Bending and the Fate of the National," in *Scale and Geographic Inquiry: Nature, Society, and Method*, eds. Eric Sheppard and Robert B. McMaster (Oxford: Blackwell, 2004), 205.

¹⁹ *Ibid.*, 202–3.

²⁰ On the value of locality, see various essays in Jerry Mander and Edward Goldsmith, eds., *The Case against the Global Economy, and for a Turn toward the Local* (San Francisco: Sierra Club Books, 1996).

²¹ Habermas, "Postnational Constellation," 108; cf. Benhabib, *Rights of Others*, 219–20.

²² For a critique of the antidemocratic character of nongovernmental organizations, see David Rieff, *A Bed for the Night: Humanitarianism in Crisis* (New York: Simon & Schuster, 2002).

²³ See Peter Singer, *One World: The Ethics of Globalization* (New Haven, CT: Yale University Press, 2002), for a statement of the opposing view. For a critique of different versions of this view, see Dahbour, "Three Models of Global Community," 209–14.

²⁴ On networks, see Helga Leitner, "The Politics of Scale and Networks of Spatial Connectivity: Transnational Interurban Networks and the Rescaling of Political Governance in Europe," in *Scale and Geographic Inquiry: Nature, Society, and Method*, eds. Sheppard and McMaster, 236–55.

²⁵ Benhabib, *Rights of Others*, 175.

²⁶ See John A. Agnew, *Place and Politics: The Geographical Mediation of State and Society* (Boston: Allen & Unwin, 1987); also see, Basil Davidson, *Black Man's Burden: Africa and the Curse of the Nation-State* (New York: Random House, 1992).

²⁷ Philippe C. Schmitter, "The Future of Democracy: Could It Be a Matter of Scale?" *Social Research* 66 (Fall 1999): 933–58.

- ²⁸ See Omar Dahbour, "National Identity: An Argument for the Strict Definition," *Public Affairs Quarterly* 16 (January 2002): 17–37, and Dahbour, *Illusion of the Peoples*, passim.
- ²⁹ Schmitter, "Future of Democracy," 934.
- ³⁰ *Ibid.*, 940.
- ³¹ On the idea of enemies, see Carl Schmitt, *The Concept of the Political*, trans. George Schwab (Chicago: University of Chicago Press, 1996). Schmitt's views on empires are, however, somewhat ambiguous because of his idea that they are often driven toward expansion for ideological reasons, rather than in opposition to those who are *true* enemies.
- ³² For a discussion of this difference between nations and peoples, see Dahbour, *Illusion of the Peoples*, chap. 2, esp. 73–74. On the distinction between contiguity and consanguinity, see 33, and on the idea that nationalism assumes a right to territory, see 144–45.
- ³³ For further discussion on this point, see Dahbour, *Illusion of the Peoples*, 177–82.
- ³⁴ Hinsley, *Sovereignty*, 161.
- ³⁵ Lea Brilmayer, *American Hegemony: Political Morality in a One-Superpower World* (New Haven, CT: Yale University Press, 1994), 26.
- ³⁶ *Ibid.*, 224.
- ³⁷ Benhabib, *Rights of Others*, 219 (italics added).
- ³⁸ Karl Marx, "Critique of the Gotha Program," in *The Marx-Engels Reader*, 2nd ed., ed. Robert C. Tucker (New York: W. W. Norton & Co., 1978), 530.
- ³⁹ On an argument for the desirability and practicability of international legal reform, though in order to realize very different goals, see Allen Buchanan, *Justice, Legitimacy, and Self-Determination: Moral Foundations for International Law* (Oxford: Oxford University Press, 2004).
- ⁴⁰ For a discussion of possible reconfigurations of the state and sovereignty with these aims in mind, see Robyn Eckersley, *The Green State: Rethinking Democracy and Sovereignty* (Cambridge, MA: MIT Press, 2004).
- ⁴¹ Benhabib, *Rights of Others*, 164–65.
- ⁴² On opposition to the way in which the EU—and in particular the EU constitution—has been formed, see Susan George, *Nous, Peoples d'Europe* (Paris: Fayard, 2005), as well as her article, "France's Non Marks Just the Beginning of the Campaign," available from the Transnational Institute, Amsterdam, at <http://www.tni.org>.
- ⁴³ Jürgen Habermas, "Does Europe Need a Constitution? Response to Dieter Grimm," in *The Inclusion of the Other: Studies in Political Theory*, trans. Ciaran Cronin (Cambridge, MA: MIT Press, 2001), 160.
- ⁴⁴ Étienne Balibar, *We, the People of Europe? Reflections on Transnational Citizenship*, trans. James Swenson (Princeton, NJ: Princeton University Press, 2004), 217–18.