

RELATIONAL SOVEREIGNTY*by Helen Stacy****INTRODUCTION**

Recent examples of humanitarian intervention and economic aid have raised questions about the meaning of the sovereignty of nation-states in an increasingly globalized and interdependent world. But rumors of the death of sovereignty have been greatly exaggerated. Traditionalists see incursions on sovereignty in such interventions and conditions. Advocates of international formations that emphasize non-governmental alliances cross-cutting state borders question the continued relevance of sovereign boundaries at all. But the better understanding of these new interventions and conditions is that they represent not the death of sovereignty but its evolution into a new form, which I term *relational sovereignty*, that both preserves the role of the nation-state in international relations and accommodates it to new global conditions.

Relational sovereignty describes the role of the sovereign government as one of meeting its citizens' civil and political needs, as those needs are assessed by actors external to the nation-state. Properly seen, sovereignty is a qualitative function rather than an unconditional status. This new meaning of sovereignty is created particularly in two circumstances: first, humanitarian intervention, either by UN or other multilateral (NATO) or unilateral forces in civil conflict; and second, when conditional economic aid goes from politically and economically strong states to politically and economically weak states that have strong incentives to pursue those aid conditions. Sovereignty under these conditions becomes a three-party transaction: international or donor institutions or states, citizens, and national governments. Under relational sovereignty, humanitarian and economic interventions are appropriate exercises of international norms if external states or donor institutions see that national governments are ignoring the putative internal political preferences of citizens and intervene as proxies on their behalf in negotiations with national governments. Sovereignty under these circumstances involves a trade-off between legality and legitimacy. My focus here is principally on humanitarian intervention; my thoughts on economic aid are further developed elsewhere.¹

MILITARY EXAMPLES: HUMANITARIAN INTERVENTION IN KOSOVO AND EAST TIMOR

A couple of decades ago, neither the UN Security Council nor the governments of individual nations relied so heavily on issues like human rights, genocide, oppression, and torture when considering another nation's sovereign status. But since the mid-1990s, military interventions for humanitarian purposes arising from a state's failure to protect its citizens from murderous unrest have invoked a moral language of international concern about the competence of domestic governments.

Two examples—Bosnia-Kosovo and East Timor—illustrate the point. The UN Security Council authorized the 1995 NATO intervention in Bosnia following the Serbian massacre of some seven thousand Muslim males in the United Nations' "safe haven" of Srebrenica.

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¹ Helen Stacy, *Relational Sovereignty and Humanitarian Intervention*, in *ETHICS, LAW, AND THE INTERNATIONAL FIGHT AGAINST TERRORISM*, (Steven Lee ed., forthcoming).

Under the terms of the Dayton Accords, the Serbian, Croatian, and Bosnian presidents agreed to end the war in the former Yugoslavia that had gone on for the previous three years and to respect the sovereign equality of one another and cooperate fully with the entities authorized by the UN Security Council in implementing the peace settlement. But when in 1999, Serbian military and police forces stepped up the intensity of their operations against the ethnic Albanians in Kosovo, NATO air strikes rescuing the Albanian Kosovars from Serbian ethnic cleansing proceeded without a UN Security Council resolution. Under a strict and formal reading of the UN Charter, the 1999 NATO intervention could be construed as an illegal military strike.

However, when the Independent International Commission on Kosovo released its report in 2000, it concluded that the intervention had been legitimate. The Goldstone Commission declared that the moral imperative of protecting vulnerable people “in an increasingly globalized world” should not be “lightly cast aside” through the adoption of legalistic views about international responses to humanitarian catastrophes. The commission suggested that the UN Charter be adapted to the Declaration by “upgrading human rights and conditioning sovereign rights on respect for human rights and the maintenance of the capacity to govern.”²

In the case of Kosovo, a permanent member of the UN Security Council had prevented collective humanitarian intervention through the threatened use of its veto power. But the UN Security Council had already condemned the human rights record in that conflict. Under such circumstances, unilateral intervention may be seen as a legitimate intervention. In other words, human rights atrocities provided a rationale for the *legitimacy* of NATO intervention, if not the *legality*—legitimate because the intervention resolved a humanitarian crisis and had widespread support within the international community and civil society. For the Goldstone Commission, the gap between legality and legitimacy is dangerously unclear.

The gap between legality and legitimacy can also be seen in the humanitarian intervention in East Timor, where, in the face of crimes against humanity on Indonesian soil, external actors bargained with Indonesia over the traditional prerogatives of sovereignty. This has given rise to what has been termed the “Annan Doctrine.”³ In 1999, just days after a peaceful referendum in East Timor recorded overwhelming support by the East Timorese for independence from Indonesia, rampaging Indonesian militiamen slaughtered East Timorese by the hundreds. UN Secretary-General Annan issued a statement that senior Indonesian officials risked prosecution for crimes against humanity if they did not stop the violence. Alternatively, Indonesia had to consent to the deployment of an international peacekeeping force in East Timor. As with the coercive diplomacy that extracted the 1995 Dayton agreement from Bosnia, the Annan Doctrine traded off a nation’s traditional prerogatives of national autonomy against an external actor’s view of legitimate, rather than simply legal, governance. For East Timor, this ultimately led to East Timorese self-rule.

These humanitarian interventions are not easily reconciled within the formal legal categories under the UN Charter. A formal reading of Article 2(4) prohibits nations from military intervention in other states on the grounds of civil—that is, purely national—violations of human rights. But in Bosnia, Kosovo, and East Timor, the legitimacy of a sovereignty claim

² THE INDEPENDENT INTERNATIONAL COMMISSION ON KOSOVO, *THE KOSOVO REPORT: CONFLICT, INTERNATIONAL RESPONSE, LESSONS LEARNED* 190 (2000).

³ The “Annan Doctrine” relates to the loss of the traditional prerogatives of sovereignty in the face of crimes against humanity. For more on the UN actions regarding East Timor, see *Annual Report of the Secretary-General on the Work of the Organization*, U.N. GAOR, 54th Sess., Supp. 1, UN Doc. A/54/1 (1999); and U.N. Secretary-General Kofi Annan, Speech to the General Assembly of the United Nations (Sept. 20, 1999), available at <<http://daccessdds.un.org/doc/UNDOC/GEN/N99/858/23/PDF/N9985823.pdf?OpenElement>>.

outweighed legal arguments of traditional sovereignty. National governments surrendered their legal prerogatives of sovereignty because of their failure towards its own citizens. The conceptual logic of these bargains stuck between governments and external actors is that where citizens within target states are unable, absent extranational help, to put into effect their political will, then sovereignty as a legal and political device will not shield bad governments from external intervention.

ECONOMIC EXAMPLES: INTERNATIONAL, REGIONAL, AND NATIONAL EXAMPLES

A similar argument can be made about economic aid. While accepting money from external actors may be seen as less coercive than military intervention—money is more of a carrot than a stick—the effects on national governance structures are profound. Conditional economic aid for structural and institutional reform is a feature of World Bank and International Monetary Fund grants and is the central plank in the creation of the expanded European Union. The European Commission's large grants of money for nation-states seeking admission to the European Union come conditioned upon being used for highly particular economic, political, and legal reforms. These reforms are the price for accession.

Aid given on very specific structural outcomes also occurs between single nation-states. For example, since 2001, the United States has sought to encourage good governance in recipient countries by creating the Millennium Challenge Account (MCA), which offers funds to countries that demonstrate sufficient commitment in three areas: governing justly, investing in people, and promoting economic freedom. To be one of the sixteen countries eligible to apply for Millennium Challenge assistance in 2004, countries needed to demonstrate past and current policy performances above thresholds set by the MCA. Countries that have not yet qualified for MCA assistance but have demonstrated a strong commitment to improve their performance on the MCA eligibility criteria may apply for "threshold" assistance. Without sufficient resources of their own, such nations are powerfully encouraged to alter their practices of governance so as to qualify for external sources of aid. While this form of inducement to nation-states may be critiqued for its overly Western-centric governance standards, the fact remains that economic aid is more likely to produce long-term change within a country than short-term military intervention.

TRADITIONAL SOVEREIGNTY

The above examples illustrate a transition from traditional notions of sovereignty as national autonomy to sovereignty as minimal governance. Twentieth-century international sovereignty was understood in international law as an obligation for each nation to respect the autonomy of other nations—an obligation that applied universally to all nations with a seat at the United Nations table. This conception of sovereignty can be found in the UN Charter and stipulates that political autonomy by national governments within national borders is sacrosanct. Under Article 42 of the UN Charter, the only exception to such autonomy is when the UN Security Council may authorize intervention when the peace and stability of the region is imperiled.

Sovereignty as autonomy played an important role in two defining moments of post-World War II geopolitical history: the decolonization movement, when the mark of national identity was self-rule without interference from previous colonial masters; and at the end of the Cold War, when the former Soviet Union fragmented into many nation-states with constitutional self-rule. In both of these epochal moments, the compelling feature of sovereignty, at least as it was expressed by emergent nations staking their claims, was internal political autonomy

relative to those beyond their borders. To be sovereign was to declare that a nation was out of bounds to anything or anybody but that nation's citizens and only vaguely implied that the new national government had any claim to legitimacy, let alone competence. The social compact between governments and their people gave only the people the right of revolution—no others may take action on the people's behalf. This conception of expansive national autonomy that shields the state from external interference leads some to argue that military interventions, even for extreme human rights crises, violate sovereignty. Under this calculation, recent humanitarian interventions should be rare exceptions that leave the traditional sovereignty rule intact. Others argue instead that the last decade's humanitarian interventions demonstrate that traditional sovereignty is an outdated relic of Westphalia. This alternative position urges the removal of sovereignty's shield, advocating the spread of European-like confederations of nation-states that trade national autonomy for the benefits of interdependence. Both positions, I argue, are reconcilable when sovereignty is properly viewed as relational.

RELATIONAL SOVEREIGNTY

Sovereignty today is vastly more complex. Whereas sovereignty for much of the late twentieth century was seen as a matter of borders and authority, sovereignty today can be conceived of as a qualitative assessment made by the international community. Sovereignty under this view depends upon the precondition that citizens be able to effectively enforce their rights against their government. This concept arises out of the intersection of two forces that have collided in the last decade—namely, the political force of the international human rights movement and the economic force of globalization.

Claims that nation-states have violated human rights by states, or claims that states have failed to sufficiently enforce human rights, now routinely come from actors both internal and external to the state. Today, the United Nations, regional systems like the European Union and the Inter-American systems, and myriad nongovernmental organizations have both direct and indirect input into human rights enforcement. Over the same period, economic interdependence between nation-states has grown. Accelerating with the end of the Cold War, the European Union has expanded and the influence of the World Trade Organization and the World Bank has increased. Whereas poorer nation-states have often been influenced by the political and economic wishes of their donor states when they have been the recipients of external aid, the proliferation and influence of regional and international organizations over the last decade has altered the dynamic between richer and poorer nations. In short, economic, cultural, and intellectual relations between states, their increasing interdependency, and the sometimes microscopic attention of the global North on the global South have formed a habit of appraising the governance of other nations.

Some have argued that these conditions have reduced, or even removed, the salience of sovereignty. They argue that global networks—governmental, nongovernmental, and corporate—have displaced the nation-state with networks of responsibility that transcend national borders. I argue instead that there is a new conception of sovereignty, incorporating the best features of sovereignty as a strong national social contract and also the proposition of globalization creating strong international interdependency. Together, they combine into a new intermediate concept I term “*relational sovereignty*”

Relational sovereignty defines sovereignty as a measure of care by government for its citizens whereby external actors ascribe the level or the standard that another government must reach in servicing the needs of that government's citizens. External actors rationalize

this external appraisal as a standard of governance that a nation's citizens must surely want for themselves, were they only able to effectively have their government supply it to them.

This new tripartite relationship between citizens, governments, and external actors preserves sovereignty as a social contract between governments and their citizens, presumptively entitling governments to do what they will to their citizens. But the presumption of inviolate autonomy is rebutted when a government violates an international norm of minimal good governance. When a government fails its citizens this way, its sovereignty is defeasible before the actions of external actors that intercede vicariously for those citizens.

Relational sovereignty values the nation-state as a normative construct that reflects the social contract between government and citizens, and as a matter of history and practicality. At the same time, relational sovereignty measures a national social contract against the minimal preconditions of governance. Relational sovereignty is both a descriptive and a normative claim. First, it describes the phenomena of external actors making the measurement of sovereignty when asking if the state has exercised its duty to its citizens. Normatively, relational sovereignty is an intermediate concept, which describes a presumptive entitlement to national autonomy that is nevertheless rebuttable or defeasible.

There are problems with this emerging formulation, such as the lack of consistent standards across international, multilateral, and unilateral external actors' humanitarian intervention and the risk that the global North holds the global South to inappropriate standards of governance when granting economic aid. As always, imbalances in geopolitical power mean that countries with strong internal revenues need have less to worry about external actors' judgments of their standards of governance. The extent and the limits of external assessment of national governance need the scrutiny and the critique of international relations practitioners and international lawyers alike.

CONCLUSION

Relational sovereignty describes a set of relations among citizens, governments, and external actors, particularly in humanitarian intervention and in grants of economic aid, that incite specific governance outcomes. External actors regard the social contract between the ruler and the ruled as below the minimal conditions for governance according to today's standards. It gives rise to a negotiation between a sovereign government and external actors, where the outside actor stands as proxy for the assumed political preferences of internal citizens.