

# **An Evaluation of Challenges to the Traditional Notions of Sovereignty in the Post Cold-War Era**

Written by Rachelle Kamba Ilenda

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RACHELLE KAMBA ILENDIA, SEP 18 2009

Sovereignty is a contested term to describe power. When spoken of in regards to the state, Sovereignty is the supreme authoritative power at the last instance. For example, this can be seen in states, in the fact that they have the sole legitimate use of violence in the form of the national army or police force. Sovereignty of the state is theoretically supposed to guarantee independent existence of the exclusive territorial state and the authority for it and the authoritative institutions it creates to exercise power without external interference, or Westphalian sovereignty. Definitions of sovereignty are many and not all are logically harmonious. In the international politics of the post-Cold War world, the tensions between different definitions of sovereignty have increased in intensity not least because of the rise of a number states with varying internal orders as well as an emergence of new threats to the international system. What the different definitions of sovereignty show is that traditional notions of sovereignty are being challenged and that the post-Cold War world is one characterised by transforming forces that contribute the challenge on states. This essays discusses the ways in which four prevalent different definitions or spheres of sovereignty,[1] have challenged the traditional notions of sovereignty since the early 1990s. These are; domestic sovereignty, interdependence sovereignty, international legal sovereignty and Westphalia sovereignty.

Domestic sovereignty involves power as control as well as authority. Domestic sovereignty refers to the extent to which states can create the formal organisation of the political authoritative bodies internally to use to exercise legal control and also the extent to which these public bodies can then wield effective control of their polity. This is a central principle in the traditional notions of sovereignty. In the middle centuries Thomas Hobbes argued about the security that can arise when the state is given sovereignty by the people. The state was to protect the people and the state law was final. Later on political theorist from Immanuel Kant to Karl Marx would argue about this was best achieved. Ultimately however sovereignty of the state was supported by the ability of the state to choose the manner in which it organised its internal bodies of authority.

States have varied in the way they have done this. They have historically varied along ideological lines. Attempted puritan communist regimes of the Soviet Union and early Communist Republic of China have had centralised public bodies, with limited individual property rights. This can be contrasted with liberal democracies such as those of the USA, North America and Western Europe. These could be distinguished further amongst themselves. For example between the federalist organization of the USA and its authority divided into the three chambers of the Judiciary, Legislative and Executive, and the UK system of two chambers of Parliament of the House of Commons and house of Lords. Or where certain prerogative of sovereignties lie, for example the right to declare war in the British Prime Minister instead of the Queen for the UK, or the German Chancellor instead of the Prime Minister.

The variation is wider with the increase of states to the extent that it challenges sovereignty being defined as domestic sovereignty. This has become more prevalent in the post-Cold War world. This can be seen in a great number of states around the world but I now focus on the states in Sub Saharan Africa.

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The political organization of authority in the countries including Zimbabwe, the Democratic Republic of Congo, and Sierra Leon, have undermined domestic sovereignty because the internal organization of public bodies in these countries does not allow them to effectively control the internal affairs of their countries. Instead the domestic sovereignty of these examples are characterised by clientelism and concentration of authority in the personality of political leaders and their policies rather than the executive and the public institutions. [2] The existence of clientelism indicates the weakness of authoritative structures and renders state sovereignty only in legal terms and not de facto. Where power has been concentrated in personal identities of leaders rather than public institutions such as Robert Mugabe of Zimbabwe or Mobutu Sese Seko of Zaire (DRC), there has been an inability for the rulers to extend domestic control inside their borders and beyond executive headquarters. This means any laws or economic policies codified may only be implemented in those most immediate reach of the personal ruler and his personal resources, which means the Capital city being substituted for the country. In one way this is only an alternative take on internal organization of authority as falls under a definition of sovereignty as domestic sovereignty. Crucially however, the ability for states that are unable to control their internal polity to be called sovereign undermines the term when it questions its coherence.

Interdependence sovereignty is solely concerned with control and defines sovereignty as the extent to which it can control its borders in terms of what's going out and coming in, that is information and ideas, goods, people, technology, capital, and pollutants. [3] The issues that have raised in prominence in the international politics since the end of the Cold War have affected the behaviour of states and their use of sovereignty in a way that makes it possible to talk about sovereignty being transformed into interdependence sovereignty. This is certainly a challenge to a traditional notion of state sovereignty as being the ability to have control of the flows of goods inside the borders of the state. Study on the authoritative challenge of interdependence sovereignty on domestic sovereignty has so far indicated that it is still the domestic institutions of the state that demand and are looked to for authority, so the challenge is concentrated on control.

A topic that has risen in prominence since the end of the Cold War, is the idea that a globalization driven by a liberal capitalist economics, is taking away from the state its sovereignty because of the ostensible sharp increase in movement of people and goods and the easier movement of labour and production from one place on the earth to another. [4] Still however some analysts would point to international politics in pre World War two period where empirically it could be seen that movement of people and goods was in greater numbers and less restricted. Also notably because of bigger areas of the world under fewer powers, less number of protectionist states as well as less scrutiny and implementation of human rights, movement of goods and people as well as movement of labour of production was not only more but also less restricted. In this way it can be said that the challenge to state sovereignty by economic globalization has not reached levels never unseen before and they are also levels which state sovereignty of the old has overcome.

However perhaps the unprecedented movement of ideas as enabled by communication technology can contribute to the eroding of state sovereignty to be able to determine the political organisation of domestic polity. For example cheaper and wider communication and communication which shrinks geography could internalise a sense of global citizenship and global civil society in once ideologically cut off places such as Iran. Perhaps the Iranian protests disputing the legitimacy of the elections declared by president Mahmoud Ahmadinejad, have been given encouragement by the sense that the rest of the world can instantly share what they are going through, sympathies with them as global citizens and even pressurize their home governments. In this way the sovereignty of the Iranian political authorities are to a certain extent challenged by an international pressure for action against its will, while domestic sovereignties of liberal democracies may be challenge by internal pressures to make changes to domestic institutional procedures for the demand of external bodies.

In contemporary international politics, states have seen opportunities in cooperation in international organizations where they have to give up certain prerogatives in their sovereignty, thus undermining their

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abilities to still call themselves sovereign. This can be seen in the organisation of the European Union to which states have let go of some economic sovereign prerogatives to create a supranational sovereign over member states. Its control also covers certain legal rights, where member states are required to modify into their constitutions certain principles of human rights as well as economic ones, for example the freedom of movement without VISA and freedom of work and study anywhere in Europe for citizens of the European Union. Sovereignty in the last instance still however rests with member states as they remain legally even if unlikely, able to pull out of these organisations like the EU or United Nations when they wish.

Since the end of Cold War in the study of international politics interdependence sovereignty can be talked about when the idea of common security can be contemplated. This is seen in the issues growing in importance that were barely covered during or before that Cold War. Global warming is one. Most scientists agree that the level at which average temperatures rise is changing and could have destructive effects on the geography of the earth and thus to the economic and humanitarian security of most countries and also to the international system as a whole. The agreement of the Kyoto Protocols of 1997 of a global bid to reduce climate change, symbolised global recognition of a common threat to human life and one which can only be met by internationally co-ordinated effort. Even if these actions remain overwhelmed by economic capitalism and its inability to incorporate economic growth that is sustainable and less harmful to the environment the issue of climate change has remained topical since first being able to be recognized after the transformation of the antagonism between the US and the Soviet Union. This has already meant that once again states have to incorporate into the internal decisions of activities, laws and policies with decisions taken interdependently. Research shows that in recent times increased effort will be demanded from the sovereignty of states as these efforts are entrenched further. This can also be seen in securing future energy supply.

In terms of sovereignty this could mean several things. That it will need further cooperation for common energy policies such as in the EU or between countries, east European countries and Russia. It could mean a threat to sovereignty of weak states to determine internal policy threatened by a belligerent superior powers in geopolitical bid to secure energy such as gas or oil. It could also mean the giving up of power in cooperations to find technological alternatives that could be standardised and made cheap for world wide access. Or underdeveloped states having less sovereignty defined as control compared to others when new technology is harder to reach them.

A definition of sovereignty as international legal sovereignty focuses on authority and the legitimate right to exist. The extent to which a state has international legal sovereignty is the degree to which other territorially exclusive and independently judicial sovereign states recognize the state as such legal entity. Most states enjoy having or where they don't have it would want to have international sovereignty because of the privileges it entails. A state seen as sovereign can engage in international agreements that may have the consequences of validating domestic rulers powers in their domestic environment as well as forwarding national goals. Recognized sovereign states will find it easier to also get into agreements with multinational companies who will feel it much more secure investing in states classed as sovereign. Not least because of what a domestic sovereignty will imply about a state that is called so. Additionally representatives of sovereign states can have diplomatic immunity reducing transaction costs of international relations on this level besides the personal privilege.

International legal sovereignty can undermine the idea of sovereigns being easily ratified or that international politics has open criteria's or principles upon which entities can be judged and approved as sovereign, because the choice can be instead political. To have international legal sovereignty is not as straightforward as accomplishing all the things on a sovereignty tick list. The practice of recognizing some states as sovereign even as they are not so in practice by a definition of domestic sovereignty, challenges what is meant by sovereignty. This issue has been seen more acutely in the post Cold War world. From the early 1990s, the internal problems of new states has burst onto the international radar. The politic experience of a number of states including Bosnia, Rwanda, Somalia and DRC have been underlined by violent civil wars characterised by ethnic divisions either in war division along ethnic lines

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and being forwarded by ethnic leaders playing their ethnic cards or deep rooted ethnic divisions leading to ethnic cleansing as opposing ethnicities were blamed for the economic underdevelopment. These kinds of wars occurred in underdeveloped non industrialised states with weak domestic authoritative institutions. Leaders did not have coherent control of internal affairs. In some cases wars were fought from the executive against its own people, or specifically against a particular ethnic group for example the Tutsi's in Rwanda. These states were recognized as sovereign in spite of their internal instability as well as an inability to control the activities of their internal geographic territories. This undermines the meaning of democracy and what can be legitimately classed as sovereign.

International legal sovereignty has contributed to principles legalised in bodies such as the United Nations in particular as stated in its Charter, Article 2, (1).[5] This has been used to codify that all states are equal.[6] State sovereignty being described as equal because it is internationally recognized or rather that this recognition is the determining factor, undermines that notion of sovereign states being equal because even though the principle is there, it does not follow in practice. International organizations such as the United Nations have been conceived while conceptualising sovereign states having to co-exist in anarchy as hindering security for each. They are established with the notion that even under no definitive overarching legal sovereign, these international organisations can play an authoritative role to the extent of mitigating co-ordination of states. They confirm and forward ostensibly common and universal norms and values. Because there is no legal sovereign each sovereign state can be equally sovereign alongside each other. This view is disputed when international hierarchies can be spoken about and thus challenge the idea of sovereign states living side by side. Certainly this can be seen in the way a superior economic power can endow certain states more determining power in international organisations over others, as seen in the United Nations, International Monetary Fund (IMF) or World Bank (WB).

In observing the workings of sovereignty on this level it can be seen how these arguments can be illustrated. In the United Nations, China, USA, Russia and France and Britain, comprising of the permanent members have rights of veto unlike any other members. There is a real sense of the institution and this power being created in the benefit of establishing a peace by the winners of WWII. However there is argument that the opposing views of Russia and China against Britain, France and USA, the east and west, prohibit the dominance of western influence on UN politics. Yet it remains that these powers are able to influence UN policy even when they clash, more so than all the remaining 187 countries. The relative power of the permanent five undermines the sovereignty of the remaining countries. Additionally the funding for the United Nations is disproportionately largely from the US. It is then not surprising when it is able to take unilateral action such as the initiation of the 2003 War in Iraq. These power asymmetries can also be in the workings of the IMF where states contributing more have increased power to determine domestic policy of states that borrow the organisations funds. For example the imposition of more open and liberal economic policies and a call for democratic government. These governments have to trade power for allocated funds for domestic public bodies for development of their economies and also for the inability to decide how to do it. Instead of equal sovereigns existing under common arbitrary anarchy there is a certain order dominated by the strong. Those states who are able to control labour and international[7] norms and the remaining that follow.

Westphalian sovereignty embodies the traditional idea of sovereignty as it is the idea of sovereignty being the ability to be created and organised as a territorially defined entity as well as being able to do this without the disturbance of internal structures of authority by external forces. This sovereignty is challenged when these domestic authoritative structures are influenced or determined by external actors. It has been seen that this can be done voluntarily as states enter into organizations. This could also be seen to be violated without states choice by overwhelming forces of economic globalization or contemporary security concerns. Climate change and energy security are the in early the stages of being conceptualised with sovereignty in a world of humanitarian intervention and externally determined state building as trends that will transform the way sovereignty is conceptualised. The securitization of human rights has also threatened conventional notions of sovereignty especially in the capacity for a humanitarian intervention and state building driven by a view of fundamentally changing the internal authoritative structures and processes of

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targeted states. There are trends towards more state cooperation which means less direct sovereignty for states. Some analysts point to a liberal order whether in the kind of policies that will tackle climate change, or determine the face of states after state building efforts in post-conflict countries. This is met with ideas of realignment of powers leading to a society of states. For example in the balancing of United States by China in intermediate history, of the newly economically developed economies of Asia and South America reaching their peak while the industrialised North turns to information industries, or later future African industrialization.

Since the early 1990s the ways in which the traditional notions of sovereignty have been re-conceptualised can be captured in four different ways. These are; domestic sovereignty, interdependence sovereignty, international legal sovereignty and Westphalia sovereignty. These alternative definitions of sovereignty have illustrate the ways in which the traditional notion of sovereignty has been challenged and not simply on the Westphalian front of sovereignty being geographically defined territories that independently authoritatively determine and establish internal order and ruling political bodies. These alternative emphasis have been raised in importance as virtue of an international politics that has allowed different issues to transform the sovereignty of states.

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[2] Tordoff, W., 2002. *Government and Politics in Africa*. Hampshire: Palgrave Macmillan

[3] Krasner, 1997.

[4] Dickens, P., 2004. *Global Shift: Reshaping the Global Economic Map in the 21st Century* . London: SAGE Publications.

[5] [5] Simpson, G. 2004. *Great Powers and Outlaw States*. New York: Cambridge University Press

[6] Ibid.

[7] Chomsky, N. 1997. *World Orders, Old and New*. New York: Pluto Press.

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