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# THE STATE OF SOVEREIGNTY

*Territories, Laws, Populations*

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35. Peter Andreas, "The Clandestine Political Economy of War and Peace in Bosnia," *International Studies Quarterly* 48 (2004): 29–51.
36. Barkin, "Illicit Economic Activity."
37. Ivan Krastev, *Shifting Obsessions: Three Essays on the Politics of Anticorruption* (Budapest: CEU Press, 2004).
38. Maria Todorova, *Imagining the Balkans* (New York and Oxford: Oxford University Press, 1997), 3.
39. See Palan, "Tax Havens" and *Offshore World*.
40. John Mittelman and Robert Johnston, "The Globalization of Organized Crime: The Courtesan State and the Corruption of Civil Society," *Global Governance* 5, no. 1 (1999): 103–27.
41. See Agamben, *Homo Sacer* and *State of Exception*.
42. Aida A. Hozić, "Zoning, or How to Govern (Cultural) Violence?" *Cultural Values* 6, no. 1 (2002): 183–95.
43. Agamben, *State of Exception*, 87.
44. Gerry Simpson, *Great Powers and Outlaw States: Unequal Sovereigns in the International Legal Order* (Cambridge: Cambridge University Press, 2004), 336.
45. Stephen D. Krasner, "Sharing Sovereignty"; James D. Fearon and David Laitin, "Neotrusteeship and the Problem of Weak States," *International Security* 28, no. 1 (2004): 5–43.
46. Krasner's conclusion is quite emphatic and it represents a radical departure from his previous positions on sovereignty. "Conventional sovereignty," writes Krasner, "has never worked perfectly. Its norms have frequently been violated. But the problems posed by failed, outlaw, weak, and abusive states are more pressing than they have been in the past. States with the resources to act now have an incentive to do so. Their ability to act effectively would be enhanced by providing a wider menu of policy options when intervention does occur." See Stephen D. Krasner, "Troubled Societies, Outlaw States, and Gradations of Sovereignty," paper prepared for a conference on failed states at Stanford University, July 2002.
47. Fearon and Laitin, "Neotrusteeship."

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### The Secret Lives of the "Sovereign" *Rethinking Sovereignty as International Morality*

SIBA N. GROVOGUI

#### Derogation from Sovereignty

As we enter the twenty-first century, theorists have increasingly focused on problems associated with sovereignty. Indeed, since the Nuremberg and Tokyo trials, international morality and jurisprudence do not admit sovereign derogation or immunities for crimes of war, crimes against humanity, and genocide, which may include ethnic cleansing. Recently, bundles of phenomena parsimoniously known as "globalization," "transnationalism," "failure of states," "migration," "global pandemic of diseases" have brought into focus practices of sovereignty. To cite only a few names, John Ruggie, Robert H. Jackson, Martha Nussbaum, Thomas Pogge, Amartya Sen, and David Held have proposed an ethics of global responsibility and solidarity, including the enforcement of human rights dispositions without regard to the sovereign rights of the states.<sup>1</sup> In this view, they are joined by legal positivists like Tom Campbell, who prescribe the rule of law as the standard of legitimate governance.<sup>2</sup> Publicists such as Stanley Hoffmann and Michael Ignatieff have gone a step further by proposing a right of humanitarian intervention in which a pre-designated collective, the West, may enact the will and interest of the international community in the event of grave danger to individuals and communities resulting from the national state's inability or unwillingness to afford them protection.<sup>3</sup> This aim to protect victims of state violence is shared by Africans and Africanists of good repute. Francis Deng and William Zartman, for instance, have argued that the international community should abide

postcolonial sovereignty only where the state has shown proper compliance with its moral and legal obligations to its citizens and to other states.<sup>4</sup> Finally, environmentalists such as Thom Kuehls and Ronnie D. Lipschutz have persuasively argued that environmental questions exceed any single state's capacities and therefore may not reasonably be relegated to the exclusive province of individual state sovereignty.<sup>5</sup>

I share the idea of revisiting the present regime of sovereignty. Still, I have some reservations about the new values and politics underlying reform. I am also concerned that theorists imagine sovereignty on fixed and determinate grounds. In the disciplines of political science and international relations, confusions abound about the nature and historical functions of sovereign rights, sovereignty, and regimes of sovereignty. Taking modern state practices as referents, so-called realists think of sovereignty as a self-referential and legitimizing device that affirms the autonomy and higher authority of the state. Realists enlist, among others, Thucydides, Herodotus, Machiavelli, Bodin, Hobbes, and Clausewitz to endorse the proposition that once the modern sovereign "killed" God and rid itself of divine authority, it inherited the right to define political life and the requirements of life itself within the polity. The state, accordingly, possesses the right to determine the requirements of domestic life and its structures of distribution of resources, rewards, privation, and punishment. Internationally, the state deserves to seek hegemony or deference to its will to power through cooperation and/or confrontation with other states.

Liberals and constructivists too refer back to the Greeks—Aristotle for instance—but also to Grotius, Montesquieu, Rousseau, Hegel, and Kant among others. But they are more skeptical of the state's claims to absolute sovereign rights and immunities. While they accept the right of the state to self-preservation through the monopoly of the means of violence, they insist on legitimizing requirements: to ensure the safety of subjects; protect their identities, values, and interests; and guarantee collective and individual rights, liberties, and freedoms. Sovereignty thus depends on the capacity of the state to create and maintain a secure environment for the nation and its lawful citizens. Indeed, Robert Jackson, Albert Hirschman, and Stephen Krasner have shown that in liberal thought the privileges and immunities of the state depend on an organic coherence and a unity between the state and the entity for which it stands: the nation.<sup>6</sup> Without this presumption, the concept of the national interest, for instance, would be an impossible ideological construct.

Based on the above, reformists have objected to "negative sovereignty," which is signified by the principles of state autonomy and no external interfer-

ence in the internal affairs of states. In this light, negative sovereignty presents an ethical problem. Robert Jackson popularized the view that negative sovereignty shelters tyrants and disempowers citizenries, particularly the disenfranchised, politically marginal, and those worn down by the present norms of politics. Given the scale of misery and crimes committed today in the wake of state failure, corruption, and violence, it is easy to understand Jackson's reaction.<sup>7</sup>

I am unconvinced, however, that these events occur because of a presumptive respect of state autonomy by other states. Sovereignty is first and foremost an historical abstraction intended to convey an organizing principle of the international system. It thus serves to order a set of changing internal and external relationships between and amongst unequal political agents. This is to say that sovereignty is always grounded in sets of social relationships and attains intelligibility only within a particular social or moral order. It is also to say that sovereignty is a policy adopted by a host of historical agents, including states. In short, sovereignty is an institution founded on specific ethical conventions based on temporal understandings of the moral order.

Christian doctrines, moral thoughts, and political philosophy tells us that, from the time of Carolus Magnus, or Charlemagne, to the Holy Roman Empire and throughout the Middle Ages, there were contestations about the nature of the moral order and its constitutive parts. Subsequent political settlements generated specific organizing principles of the relationships among sovereign entities. Resulting arrangements actualized a succession of regimes of sovereignty. Charlemagne and Pope Leo III, for instance, initiated a regime of sovereignty when they brokered the agreement that instituted a co-dependency between them while affirming their common control of the realm. This initial regime was modified by Pope Nicholas II, who first declared his independence from the emperor; Gregory VII, the first pope elected by cardinals and bishops; and Innocent III, who formalized the structures of the church by unifying the church and the flock under a centralized papal leadership and a disciplined and loyal clergy.

Since then, multiple regimes of sovereignty have both competed and co-existed in time and space. For instance, while the emperor remained otherwise central to the survival of Western Christendom, his relationships with popes, priests of the church, kings, and lords continued to change until the advent of the Holy Roman Empire. Each new arrangement brought about a new regime of sovereignty or a modification of the political structures on which sovereignty rested. A regime of sovereignty thus understood is a manner, a method, and a system of organization of sovereignty in time and space.

History is awash with similar scenarios, albeit with different stipulations of sovereignty. For instance, the post-World War II order under the UN Charter survived the collapse of the Soviet Union and the communist system. The bipolar system and its practices have since vanished, but the UN Charter continues to provide guidance to international affairs within a new configuration of political agents. It may be said, therefore, that the post-Cold War era ushered in new regimes of sovereignty, but the central ordering principles of the postwar order remained intact.

I join Hegel in contending that there has never existed a singular mode of global governance under a Westphalian model of sovereignty. In Hegel's view, sovereignty reflects dynamics of conflict and negotiation among unequal agents across time and space.<sup>8</sup> These dynamics result in regimes of sovereignty under which hegemonic powers establish convenient and politically acceptable rules and norms, on the one hand, and mechanisms of resolution of competing interests, on the other. In other words, sovereignty cannot be envisioned without considering the subjective ends of pertinent regimes toward their internal subjects and external objects. For instance, beginning in the sixteenth century, Western powers determined to "emancipate" themselves from the political chaos and anarchy generated by the antagonisms of the Reformation, Counter-Reformation, and subsequent political events. The peace treaties of Augsburg (1555), Westphalia (1648), and Vienna (1815) would establish consensual rules of mutual recognition and the principle of cooperation for the attainment of collective historical ends—cultural, ideological, economic, or otherwise.

The resulting compacts created ethical realities: codes of rules, norms, and principles that created a juridical equality between states actually unequal in size, capacity, and legitimacy. The related fiction was the basis of privileges and immunities that allowed European states to coalesce into the Concert of Europe, the Holy Alliance, and later the North Atlantic Treaty Organization. Participant states were given formal equal standing with respect to each other, despite significant variations in their capacities and resources. Thus, in the Concert of Europe powerful centralized states (France) co-existed alongside "quasi-states" (Belgium), weak states (Switzerland), and micro-states (Vatican, Andorra, and Liechtenstein). The sovereignties of the latter were reinforced by structures of the international political economy and by the normative regime of sovereignty in which they participated. Even today, their existence depends on geopolitical considerations of adjoining powers and the applicable ethos of sovereignty.

The insufficiency of Westphalian common sense becomes apparent when one considers the effects of the historical coordinates of sovereignty instituted

concurrently by European powers in Africa. Although European powers competed with each other for hegemony in the nineteenth century, they concurred across national competition to establish institutions of global governance that set "Europe" apart from regions such as "Africa." In the nineteenth century, the Great Powers regulated intra-European relations and European access to the strategic resources of the emergent global political economy. The resulting juridico-political regimes allowed the sovereign and economic agents of Belgium, at the time a small quasi-state, to conquer vast expanses of African lands to be known as the Congo. The 1885 General Agreements of Berlin effectively compelled African rulers to transfer their sovereign authorities and privileges to such colonial powers as Belgium. Thus followed European acceptance of dubious treaties and accords, based on legal and political machinations, force, and deceit—all of which allowed individual and corporate European profiteers to legitimize their foothold in Africa. "Africa" was thus subordinated to the requirements of the global political economy and an ordering of civilizations and human faculties such that European conceptions of community, religion, citizenship, and property took precedence over all others.

This scenario did not change much after the eclipse of formal empires, thanks in part to Cold War geopolitics. At Congo's independence, a group of Western states destroyed Patrice Lumumba's ruling coalition and supported Mobutu Sese Seko's despotic rule. These events were compounded later by an ethos of permissiveness that enabled political violence and graft and embezzlement that helped to bring Zaire to the brink of financial bankruptcy and to lay the groundwork for the civil war that still persists in the Democratic Republic of Congo. Of course, Congolese entities played significant roles in these events.

It is clear that sovereignty takes form through multiple, complex, and differentiated institutions that congeal into formal and informal regimes of authority and practices. The mechanisms of differentiation are recognizable norms, rules, and ethical standards that guide collaborating, competing, or mutually unintelligible geopolitical entities. Together the regional coordinates of sovereignty promote hierarchical systems among states and regions of the world. They modulate power trans-territorially and across geopolitical regions to give form to international governance. Thus, sovereignty regimes reflect historical distributions of power and subjectivity within the international order and corresponding symbolic and material economies. These allotments depend on the complementary processes of imposition, subordination, negotiation, and abjuration of interest and

values by relevant actors. In short, sovereignty regimes define the place and role of each geopolitical region along with the range of sovereignty practices available to it.

### Sovereignty and the Sovereign Will

Neither sovereignty nor regimes of sovereignty can be properly understood without attention to the will of sovereigns. At the center of historical disputes over sovereignty are arguments about the nature and ownership of sovereign powers within the domestic and global polities. These historical debates parallel but are not wholly contingent upon or fully identical to historical struggles implicated in the design and organization of sovereignty. The determination of the sovereign has followed its own logic and as such retains temporalities that are distinct from those of the political instruments of sovereignty and regimes of sovereignty.

The sovereign is the most exalted authority in any society, the entity whose powers over its objects, subjects, and spheres are qualified only by the will that brings it into being. From the Imperium and the Sacerdotium to the Holy Roman Empire, Hanseatic League, and the Italian city-states, the office of the sovereign frequently remained vested in a person whose authority abided within the realm. The will of this person was thought to mystically constitute the moral foundation of sovereignty just as its ethical embodiment provided the foundations of politics. This is to say that from the ninth-century coronation of Charlemagne to the eleventh-century onset of the Investiture Struggle to the advent of secular dynastic regimes and empires, the identity of the officeholder, the sovereign, was indistinguishable from the function of the office: sovereignty. Sovereigns pretended to have hegemony over other social agents. They thus insisted on unilaterally framing the juridico-ideological context of the moral order, on charting the context of all relations within society, on defining the foundations and instruments of social interactions writ large, on defining time and social knowledge, and on assigning social roles and spatiality within their realms.

This situation lasted throughout the Middle Ages but could not withstand post-Renaissance formulations of politics and ethics. Upon Thomas Aquinas's speculations on law and natural rights, reason began to supplant faith as the chief support of Christian thought. The triumvirate of "God, nature, and prescription," which had displaced "God-pope-men," was itself no longer an acceptable basis of political authority. The rediscovery of Greece through Arab scribes; the revelation of the existence of beings beyond Shem, Ham, and

Japhet in a world hitherto unknown; the spread of scientific knowledge; and the advent of the printing press undermined old orthodoxies. From the Renaissance onward, collective identity replaced the natural order; the foundation of political authority shifted from God to imperial claims; theological prescription gave way to rationalism and necessity. The so-called Enlightenment was upon History when reason and free will prevailed as the ethical foundations of politics.

The Enlightenment ushered in political contestations that echoed the Investiture Struggles that, following a rejection of the foundations of Coronation of Charlemagne, sought to settle the dispute on the nature and locus of sovereign powers. From Charlemagne to the Reformation and Counter-Reformation, sovereigns claimed to hold their title, rights, privileges, and immunities from God, pope, and men. The Renaissance mediated the relationship between men and God through *nature* or *legacy* and *reason*, which displaced the papacy but made the flock subservient to dynasts and kings. Still, the Renaissance did not conclusively elucidate key questions on the allowable degree of permissiveness to be granted to the sovereign. Nor did it clarify the extent of prohibitions or constraints to be placed on the sovereign. Hence, during the eighteenth century, dynasts, kings, and princes once again confronted domestic political entities and subjects in epic battles over power, its foundations, and its symbols. These contestations were reflected in the French, American, and Haitian revolutions, which definitively held that the holder of the title of sovereign may be the symbol of sovereignty but not the inherent repository of the sovereign will. In fact, these three revolutions separated the identity of the officeholder, who symbolically embodies sovereignty, from the locus of the sovereign will: citizens, individuals, and persons.

These three revolutions symbolized the quest by Man-as-political-subject of sovereign rights based on conceptions of human faculties as unalienable endowments—that is, untransferable and thus beyond the reach of the police powers of states or those holding the titles of sovereign. One thinks of Thomas Jefferson's opening act in the Declaration of Independence. Indeed, the American, French, and Haitian revolutions claimed inalienable faculties and immunities for their subjects, but they differed on the capacities in which Man would claim such powers: the French revolution opted for citizenship; the American revolution chose individualism; and the Haitian revolution picked personhood. Each of these revolutions established two inextricably linked sovereign entities, the governor and governed, both self-conscious agents, both endowed with specific capacities. While endowing the state with sovereign privileges

and immunities, these revolutions also envisaged parallel privileges and immunities for citizens, individuals, and persons, to be protected as means to political and civil society—the repository of sovereign powers. Each entity in its context was imagined as titular of immutable rights parallel to those of the competing domestic sovereign. Hence, the concept of reserved rights is described in the U.S. Constitution. Finally, even as they sought to regulate them under homogeneous social contracts, the French, American, and Haitian constitutional orders implicitly exhibited the diversity of human faculties and capacities.

It is a function of the language of politics, then, that the specific faculties and juridical capacities of Man were imagined as rights. The linguistic artifice of rights signified the uniqueness, inherence, and permanency of their objects and rationalities. Its goal was to eradicate the social contexts of political violence, as means of self-preservation, and to enact positive freedoms, including the right to self-govern, the right to dispose of one's own will, and the right to the resources of life. The rights of the new subjects were at once historical and untransferable. They were also permissive, when they allowed self-assertion in defiance of the state, and prohibitive, when they imposed outer boundaries to the immunities of the states. Finally, they were opposable to the sovereign privileges and immunities claimed by the existing states and their sovereign: King George III, Louis XVI, and Napoleon.

#### Privileges and Immunities

To the extent that the rights, privileges, and immunities of citizens, individuals, and persons can be subsumed under the general categories of human rights, they were and are opposable to sovereigns everywhere: imperial, provincial, regional, and national or, alternatively, liberal, democratic, authoritarian, and dictatorial. These rights, privileges, and immunities are a species of sovereign rights: at once permissive and prohibitive, and positive and negative. When connected to self-government, human rights discourses are faculty-enhancing. In the hands of French revolutionaries, human rights were above all rights of citizenship, democratic rights, and rights against the state—whose sovereign was beheaded—on behalf of self and other citizens—hence, the connections between the rights of Man and Citizens on the one hand, and liberty, equality, and fraternity on the other hand. Rights and responsibility to others would be bound up in ways that were not even apparent to French revolutionaries in their time.

In the New World, the language and discourse of individual rights were first and foremost defensive. They enabled individual colonists to protect their

property and engage in commercial, economic, and scientific activities that enhanced their liberties and accentuated their right to the resources of a land whose sovereign claimant was in fact absent both physically and metaphorically. Isaiah Berlin has underscored the negative enunciation of individual liberties as against state encroachment.<sup>9</sup> But the American revolution also had a positive, self-affirming dimension akin to one frequently expressed by populations alienated from the political order: the right to have rights, as Hannah Arendt formulated this claim.<sup>10</sup>

In Haiti, one encounters the same combination of positive and negative rights, but these rights were not claimed on behalf of the citizens, for the slaves were not citizens, nor on behalf of property, for the slaves themselves were property. Indeed, centuries before the modern Refugee Convention, the Helsinki Accords, and the philosophical treatises of Giorgio Agamben and Hannah Arendt, Haitian slaves had pondered bare existence and the right of those so reduced to such an existence to claim sovereign rights for themselves.<sup>11</sup> The rights enunciated in Haiti protected the faculties of the person as a biological entity, prior to any other existence. These have been framed poetically by Sibylle Fischer and Sidney Mintz as rights of persons not to be someone else's property; not to be flogged; not to be denied a family; not to be denied the right to testify in court or against the court; not to be raped, tortured, murdered, or sold.<sup>12</sup> These rights were intended to recognize the humanity of the slave and to preserve the integrity of the body, soul, and gut. Since then, they have been affirmed variously under different contexts by various political movements, even without specifically recognizing the precedence of the Haitian revolution.

The Haitian revolution also set itself apart in other regards. It not only sought to broaden the idea of Man beyond its Enlightenment ontology, but it sought to protect the disenfranchised against the sort of violence that is often enacted by democratic constitutional orders such as those in the United States, where, at the time of the Haitian revolution, individuals could not only be slave owners but could enact economic systems that literally fed off the slave. The Haitian revolution served to underscore that rights-bearing, free-willing, and interest-maximizing individuals are capable of unspeakable violence. This is why the Haitian revolution sought to protect but also to enhance human capacity by proclaiming equal access to the resources of life—in their terms, equal access to land for the *anciens libres*—the heirs to the slave order—and the *nouveaux libres*, the former slaves.

This brief tale would be insufficient unless cast in the light of subsequent events. At the time of revolution in the United States, few of the constitutionalists

asked themselves how property was acquired and enjoyed. They assumed, if only implicitly, that Africans amongst them would be their property. Fewer still asked how the designation and enjoyment of property affected the propertyless slaves and ex-slaves on the one hand, and so-called Indians on the other. The French Revolution too was not without its hesitations. Some revolutionaries held the distinction between active and passive citizens for the purpose of protection and entitlement. Related notions of justice laid the grounds for a late-nineteenth-century liberal turn in France under the Third Republic. Even in Haiti, the great majority of slaves remained unconcerned by the interests and aspirations of the mulatto elites—also the basis of later conflicts.

Revolutions and counterrevolutions countenanced pernicious forms of violence. Each put forward political agendas that envisaged the admissibility of coercive force and the application of violence as instruments of the social order, justice, and peace. I do not mean to amalgamate here. In the United States, abolitionists rejected the notion that southern states may retain slavery as a matter of constitutional rights or reserved powers. The abolitionist view became a *casus belli* when, in the 1860s, southern states opposed the extension of federal legislative powers in the matter of slavery and secession. At the end of the Civil War, Abraham Lincoln responded to the incipient challenge to the constitutional order by extending federal powers and citizenship under the so-called post-Civil War Amendments—the 13th, 14th, 15th.

These amendments reconciled individual rights with republican ideals under federalism. Still, even the Civil War Amendments would not suffice. From the mid-nineteenth to the twentieth century, Native Americans, women, workers, African Americans, and Japanese Americans alternated in denouncing the inadequacies of American federalism and republicanism. These were punctuated by judiciary acts such as *Plessy v. Ferguson* and actual political violence, conventionally known as the Trail of Tears, Jim Crow laws, poll taxes, lynching, and internment camps, among others. It is fitting to note that the federal government responded more or less adequately and according to circumstance to the grievances of the concerned groups, with the notable exception of Native Americans. For the latter, there will be no dramatic constitutional gestures.

In France, the distinctions between *citoyens actifs* and *citoyens passifs* not only prevailed but were expanded under Napoleon III to respond to the requirements of French capital and empire. The reconfiguration of the state and

the social compact led to political regression and retrenchment from the ideals of justice as solidarity in favor of justice as licit rewards. This latter position served to undermine democratic entitlements and to advance the imperative of the protection of individual rights to liberty and property as higher state functions. To placate humanist forces favoring revolutionary ideals, Léon Gambetta proposed the Belleville Manifesto of 1869, under which individual voluntarism would replace state responsibility as the primary source of social welfare. Hence, liberalism was introduced in French constitutional discourses. Specifically, Gambetta advanced the view that “progressive economic reforms” that ensured “economic and social gains” are better guarantees of liberty, equality, and civil rights. This view never fully cemented. As Fred Cooper and others have shown, the French left and anti-colonial forces revisited the principles of liberty, equality, and fraternity in the context of French institutions throughout the nineteenth and the twentieth centuries.<sup>13</sup>

In Haiti, mulattoes refashioned the state as an instrument of their power to the exclusion of the vast majority of Haitians, that is, the formerly enslaved. This refashioning of the state occurred in conjunction with a growing U.S. influence that favored the interests of a segment of the educated minority. According to Michel-Rolph Trouillot, beginning in 1912 the state took as its principal duty the protection of property and property owners.<sup>14</sup> From the middle of the twentieth century, the bid of the Haitian Mulatto and merchant class to retain the machinery of the state as its own instrument was challenged by the majority. François Duvalier seized upon this grievance of the majority to repressive ends. The repression lasted without much concern in the United States because Duvalierism coincided with the waning of U.S. interest in Haiti. Cold War *realpolitik* and the changing global economy further isolated Haiti and let repression persist until the emergence of street radicalism symbolized by Bertrand Aristide and his Lavalas Party.

This history remains with me. I too am distressed by the mounting numbers of victims of failed, collapsed, and oppressive states. But I also concur with Zygmunt Bauman and Kevin Hetherington that the badlands of modernity are to be found everywhere, even in the bureaucratic, legislative, and economic processes of well-endowed and well-administered states.<sup>15</sup> Migrants, refugees, the internally displaced, and the economically distressed can attest to the fact that even liberal states and their incorporated and unincorporated entities cause them much hardship.

## Protections and Rights

I would like to take solace in the fact that every society has envisaged, in its history, linguistic and moral devices with which to protect the oppressed or persons stripped of political affiliation and/or the resources of life. But I am reminded that some reform proposals of the practices of sovereignty are entangled in pragmatic enterprises and parochial rationalities. Reformists are seldom devoid of partisanship. They are always deferential to a civilizational language that favors a group of states over others. They invariably find rationalities with which to explain away the violence of particular politics and economic systems. The language of reform is founded on a normative ideology that holds in contempt the sovereignty of those—mostly in Africa, Latin America, and elsewhere—who are suspected to be prone to antisocial and anti-normative behavior on account of culture and passion and the absence of reason and political rationality. This suspicion is never expressly stated, although its presence in the unconscious is always accessible through bundles of unthought premises and reflexes. In contrast, reformists appeal to another group of states to exert their sovereign will by restoring reason and rationality to global politics where passion may subvert reason and rationality. They thus cast intervention as repulsive in a world of sovereigns but irresistible in a world of evil and non-virtue. We are not quite back to a world where imperial reason was the foundation of political discourse, but we are getting very close.

As a political scientist and international relations theorist, I am afraid that the discourses on reforming sovereignty are producing a new absolutism: a metaphysics of politics that vests one region, and through it particular states and constituencies, with the unqualified power and unquestionable wisdom to set absolute standards for governance. This happens in an era in which the “traditional” powers of the state—of all states—and old axioms of sovereignty are contested worldwide. The idea of self-appointed guardians of international morality is ethically dubious. One can easily elaborate a repertoire of misplaced Western motives and past complicities with tyranny. One can also credibly point to admirable humanitarian interventions conducted by non-Western states: India intervened to end bloodshed in Bangladesh and helped to maintain the territorial integrity of the Congo upon Lumumba’s assassination; Vietnam ended the reign of the Khmer Rouge in Kampuchea; and Tanzania uprooted Idi Amin’s dictatorship in Uganda. In this sense, morality and notions of political legitimacy are not the preserve of any one region or political doctrine or ideology.

Once again, sovereignty is not the property of the ruling classes, and I favor the collective or political society as the titular sovereign even as legitimately selected representatives retain the symbol of sovereignty and control of the machinery of state. In our time, the sovereign state draws legitimacy and sustenance from its human populations and not the other way round. When extended outwardly to the international order, this axiom can be modified to imply that all states must abide by the will of political societies before supporting any regime. In short, the identity and interest of the state and political society may not be confused.

It therefore troubles me that “innocence” and “victimhood” have emerged as authorizing tropes of intervention. I know of no society that does not have sovereign aspirations and, yes, commensurate political agendas. This reality imposes the moral imperative to explore the aspirations and wills of victims. Even if we do not submit to them, such a consideration has profound implications. For instance, what do we do when the “victims” of repression or genocide initiate violence, when they rebel against economic measures that undermine their capacity for a dignified life, when they are hostile to an intervening state for its complicities in bringing about the order to which they object? Do we affirm and support the sovereign right of the disenfranchised to access the essential resources of life in resource-generating economies? Are there sanctions for external support to repressive regimes or complicities in the collapse of the state? What are the mechanisms of accountability and sanctions against intervening states for transgressions against the sovereign desires of populations? Does the right of resistance to occupation extend to the intervening states under some circumstances? These are only the beginning of a reflection long overdue.

The advantage of the discourse of human rights in confronting violence is that it compels us to think not only of states and societies but also of their most elemental units: humans. It bears repeating that the modern human has been imagined constitutionally as duty-bearing citizens, rights-bearing individuals, and dignity-bearing persons. This last category of modern subjectivity and the requirements of life-in-dignity have been forgotten. They are indeed constitutionally unclaimed nearly everywhere. Today the constitutionally unclaimed—or the disenfranchised, politically marginal, and those worn down by the norms of politics—have returned on our TV screens as migrants, temporary and semi-permanent refugees, the internally displaced and land-deprived, sex slaves, child soldiers, and the like. They are so because of actions mostly attributable to dictatorships and authoritarian regimes but also, in no small measure, the actions of self-professed democracies. It would



be folly to think that sympathy and philanthropy alone will attenuate their plight. Their presence on the world stage raises profound constitutive and constitutional questions. I personally think that it is about time that deliberations on sovereignty turn to the sovereign rights of the “unclaimed”: those disenfranchised by modern constitutional forms and those who have yet to enunciate their own requirements to life.

To me, it goes without saying that these unclaimed entities are entitled to repel any actions that may compromise the body, soul, and gut, whether such actions are political arrangements or economic policies. Just as Victor Hugo said the sewage is the conscience of the city, the constitutionally unclaimed are the ultimate judge of the rectitude and sufficiency of domestic and international orders. They are proof that, in exercising their own sovereign wills, states and political and economic agents have contributed to depriving vast majorities of the most basic standards of human dignity. If we do not attend to the requirements of life for these entities, we are effectively inviting them to determine on their own the conditions of their entry into the global sovereign compact. They will surely speak up as the last sovereign. When? I do not know. In what form? I am not sure. With what means? I know not. History tells me that they will. Time is on their side, and they have nothing to lose.

#### NOTES

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