

Military Intervention and Sovereignty: Intersubjective and Enduring Efforts of States

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This paper examines the evolution of sovereignty in international relations. This paper argues that sovereignty, as a concept, has evolved intersubjectively over a long period and is not sacrosanct or concrete. Sovereignty has been subject to interpretation and is a dynamic product of enduring efforts by the states to structure relations among them in particular ways. In International Relations, the norm of non-intervention has been the law for peace in the international system. However, as the international system saw the emergence of new states which are not homogeneous in nature, state-making in these states has been marred by ethno-nationalistic movements and ethnic violence. This has led to increased humanitarian military interventions and elicited strong retaliation from countries in the Global South against infringements of these states' sovereignty. This paper explores the intersubjective evolution and interpretation of sovereignty over time, and is a product of states' negotiation in international relations.

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Introduction

With the onset of ever-increasing economic interdependence across states, concerns have been raised over the diminishing sovereignty of states. External sovereignty of states is being subjected to demands and conditionalities of International Financial Institutions. Thus, it is pertinent to trace the historical trajectory of the notion of sovereignty and see if it was ever a 'concrete' and 'exclusive' attribute possessed by the states. Equally important is the issue of 'non-intervention' in sovereignty, which states often put at the fore while decrying humanitarian military intervention amid cases of gross human rights violations within their territories. Military Intervention is the use of force by a state or a

group of states to prevent or stop grave human rights violations without the target state's permission. Military Interventions have become controversial as they violate the norm of non-intervention mandated by the UN Charter and considered a fundamental principle of state sovereignty. The international community could not deliver a decisive intervention in Rwanda, which experienced the worst genocide in history. Therefore, it is the need of the hour to examine the challenges that sovereignty poses when the international community gears up to develop a doctrine of humanitarian military intervention to protect the fundamental human rights of people being violated by their own states. The study is descriptive and analytical in nature. The study would rely heavily on theories of sovereignty to

assess the claim of diminishing sovereignty. Thus, the study would be primarily qualitative, and it would involve examining the secondary literature which has dealt with the historical trajectory of the notion of sovereignty.

Objectives:

The objectives of the study are as follows:

- i. To examine the evolution of sovereignty from the 'Westphalian moment' to contemporary times,
- ii. To examine whether sovereignty of states evolves intersubjectively over a long period of time.

Intersubjectivity in the Evolution of Sovereignty

The 1648 'Treaty of Westphalia' is credited as the source of contemporary International Relations (IR), and the moment when the present understanding of sovereignty was conceived. In this treaty, European states, such as the Kingdom of Denmark and the Dutch Republic, gained "non-interference from the Roman Church" (Osiander, 2001). Scholars of International Relations argue that the treaty led to the foundation of the modern international system, which is based on sovereignty and the discipline of International Relations. Today's international order comprises countless sovereign entities, making it nearly impossible for anyone to exist outside the framework of sovereignty (Loick, 2018). The idea of sovereignty was born out of the chaos of wars, namely the 'Thirty Years' War', and was formally conceptualised at the Treaty of Westphalia, but it existed before the treaty. According to Loick, Sovereignty is when "an authority rules over a territory as the final authority". He further argues that sovereignty "is an invention; it didn't always exist, and neither should it exist". Sovereignty has evolved intersubjectively over a long period from medieval times to present times and is still evolving intersubjectively, where sovereignty is being subjected to the conditionalities of globalisation, which constantly redefine the meaning of sovereignty, except in how states act during times of civil war, etc where some states commit atrocities against their citizens, revealing

a stark contrast in the exercise in the name of sovereign power. The idea of sovereignty bears a Eurocentric bias; for Western IR theorists, it developed in the West; for post-colonial nations, the pursuit of sovereignty has historically centred on securing independence from colonial dominion. Sovereignty has undergone significant intersubjective evolution from medieval times to the present, and it continues to adapt under the pressure of globalisation, which incessantly reshapes its meaning.

However, few observers propose a contrary version of the 'Westphalian' treaty. Osiander argues that the Western IR narrative is nothing but a myth (Osiander, 2001). Osiander argues that the ideology of sovereignty has also allegedly hampered the development of International Relations (IR) Theory. For Osiander, "the settlement to which everyone refers" is nothing more than a figment of imagination. Mainstream IR theory presumes sovereignty to be "fundamental and exclusive" attributes of states. But on closer analysis, the "historicity and variability of sovereignty as well as its intersubjective quality" becomes evident (Ashley, 1984). John Ruggie and Richard Ashley contest the nature of sovereignty as "timeless" attributes of the state (Ruggie, 1983). They claim sovereignty as a modality of ordering global politics which is characteristic of the modern state system. Contrary to accepted wisdom, politics in medieval Europe was based on "heteronomy", not on "sovereignty". On a different note, Daniel Philpott suggests that the sovereign state system emerged out of two distinct periods in history. According to Philpott, "Revolution in ideas brought crises of pluralism which was settled through international agreement on sovereign statehood" (Philpott, 2001). He argues that Westphalia and colonial independence dismantled imperialism and secured the post-colonial states' 'self-determination'. Richard Ashley contends that "sovereignty is itself a variable which is distinct from heteronomy and was a product of states' interactions" (Ashley, 1984).

Ruggie and Ashley's work were instrumental in the deliberation of the concept of sovereignty

both theoretically and empirically. Few scholars have even suggested how debate among liberal interdependence, critical and realist theorists rescued sovereignty from abstract treatment in international law and political philosophy and imbued it with political relevance and theoretical meaning (Walker, 1988). Stephen Krasner proposes four ways in which sovereignty is conceived: “domestic sovereignty, interdependence sovereignty, international legal sovereignty, and Westphalian sovereignty”. He argues that both Westphalian sovereignty and international legal sovereignty have “clear logics of appropriateness which are most often eclipsed by the logic of consequences” (Krasner, 1999). For many, the rule of non-intervention is a key element of sovereignty and international relations, but Krasner says Westphalia had little or nothing to do with this notion of non-intervention. Recognition has been central to the claim of ‘sovereignty’ by states. Krasner argues that the constitutive logic of international legal sovereignty is that “recognition is extended to states with territory and formal juridical autonomy”. Soviet Russia was not recognised until 1934 by the U.S. despite fulfilling all prerequisites of ‘statehood’, while Ukraine was a UN member despite being a part of the Soviet Union.

Realist Theorists argue that sovereignty is the ability of states to make authoritative decisions. Janice E Thomson construes sovereignty as the “recognition by external and internal actors that the state has exclusive authority to intervene coercively in activities within its territory” (1995). State-centric theories in IR have an ontological view of states where they are ‘sovereign’ by definition. For liberal interdependence theorists such as Thomson, sovereignty is defined in terms of states exercising their capability to control activities and actors within their territory (Thomson, 1995). Liberal interdependence theorists treat ‘sovereignty’ as a “variable”. In order to assess the claim that ‘sovereignty’ is being diminished, insights offered by liberal interdependence theorists are crucial. They say the state-centric paradigm has less utility in the 20th century, but they do not question their

assumption of sovereignty as such (Keohane, Nye, 1972). Keohane and Nye conceptualise sovereignty not in terms of ‘control’ but ‘authority’ and claim sovereignty as an institution imparting to states ‘meta-political’ authority. Though states are increasingly losing control, ‘authority’ for authoritative decision stays with states (Thomson, 1995). Thomson argues that liberal interdependence theorists’ conception of sovereignty is ‘ahistorical’ and confused if sovereignty is eroding or simply shifting from the central state to people.

Sovereignty and Military Intervention

The principle of ‘non-intervention’ implicit in ‘sovereignty’ is often invoked to thwart ‘Humanitarian Intervention’ by the international community. But as Krasner contends, ‘non-intervention’ as a norm saw light of day only in the late 18th century through the efforts of Vattel and Wolff. For many, “the rule of non-intervention is a key element of sovereign statehood” (Krasner, 1999). Krasner further points out “four modalities”, i.e. “convention, contracts, coercion and imposition”, through which “Westphalian sovereignty and international legal sovereignty” have been violated. Krasner highlights the example of Greece in 1832, when major European powers influenced its domestic political state and various states such as Hungary, Poland, and Ukraine, which were subjected to the Soviet Union’s concerns. Krasner also feels weak states have been ardent advocates of the rule of non-intervention. So, it is evident that the ‘sovereignty’ of states is not ‘sacrosanct’, and the history of modern states reflects that it has too often been violated for various purposes (Krasner, 1999).

In the 1990s, the international community argued that sovereignty entails responsibility rather than authority. International Commission on Intervention and State Sovereignty released a report titled ‘The Responsibility to Protect’ hereafter R2P in 2001. The report discussed rethinking intervention as a duty to protect populations at risk of massacre or displacement within their own state, rather than as a

discretionary strategy of the powerful (Ignatieff, 2021). The UN members endorsed R2P to prevent mass human rights violations such as ethnic cleansing, genocide and crimes against humanity in 2005. Former UN Secretary-General Kofi Annan and Boutros-Ghali have pointed out that sovereignty of states is not “absolute and exclusive and can be curtailed in specific circumstances” (Ayoob, 2002). Mohammed Ayoob also points out that the “sovereignty as responsibility” notion echoes the “standard of civilisation” argument. With strong retaliation from the countries of the Global South, Ayoob argues that the intervening powers have justified their actions as being undertaken as a responsibility of the international community and to uphold human rights. However, Thomas Weiss argues that as far as interventions are concerned, “there can be no universal imperative and states will pick and choose” (Weiss, 2000). Ayoob also points out the ‘double standard’ in humanitarian intervention and selective intervention. No military intervention was carried out in Rwanda in 1994 when the UN had enough intel that there was going to be a genocide, but NATO bombed former Yugoslavia in 1999 to save Albanians from the Yugoslav forces.

Robert Keohane argues that some people regard humanitarian intervention as an “obscene oxymoron” (Keohane, 2003). Keohane argues that states currently in the state-making process will be subject to “limited sovereignty”. Michael Ignatieff proposes a rethinking of sovereignty and also the concept and practice of ‘neutrality’ in order to fix ‘failed’ states. On the contrary, Ayoob contends that weak states will be subject to infringements of their sovereignty. Ayoob suggests that “the future of international order hinges on the way we are able to resolve tension between international intervention and state sovereignty”. In order to lend legitimacy and credibility to humanitarian intervention, Ayoob calls for a “new humanitarian council” with at least 50 UN members. He also proposes amendments to the UN Charter, claiming that humanitarian intervention should not be undertaken under Chapter VII of the UN Charter because circumstances that lead to humanitarian

intervention usually do not fall within the ambit of threat to international peace and security as defined in that chapter.

Sovereignty serves as an impenetrable shield for states during internal conflicts specific to the state, particularly through the principle of non-intervention explicit in sovereignty. This principle has impeded humanitarian military interventions aimed at protecting the rights of the people. A pressing question arises: whether human rights should take precedence over the sovereignty of states. The Responsibility to Protect (R2P) concept was developed in response to this dilemma. Powerful states have been vocal about human rights, whereas weaker states see military interventions as a means to dictate the world, as it will always be the powerful states with the capacity to carry out these interventions. This goes against sovereign equality embedded in the international system, where a sovereign state is free from intervention in its internal affairs. The mass atrocities in Rwanda and Kosovo led to the conceptualisation of R2P. These two cases also represented the selective approach, where there was non-intervention in the case of Rwanda, whereas NATO carried out intervention without a Security Council mandate. The proponents of intervention allege that Military Intervention is a Trojan Horse of the powerful states to affect the mandate of the stronger states and is driven by national interests. The argument behind selective intervention is that some people’s lives are more important in comparison to others. The population of Kosovo, predominantly Christian, is important in comparison to Africans in Rwanda, which echoes the Standard of Civilisation.

Discussions on sovereignty often focus on the debate over whether it is diminishing or strengthening due to globalisation. The traditional view that the state is the sole authority over its territory is evolving. Ignatieff argues that sovereignty is experiencing a resurgence because of the very forces that threaten it (Ignatieff, 2021). According to Ignatieff, the global economic crisis, specifically issues of sovereign debt, has created a demand for sovereign guarantees to reassure markets. Market Societies

are looking for an authority - a sovereign which is the source of authority, control, and power. Ignatieff argue, Market societies seem unable to exist without sovereigns. Multinational organisations, NGOs, and transnational entities now play significant roles in influencing state sovereignty. A key example of this diminished sovereignty is the European Union, where member countries have ceded aspects of their sovereignty to participate in a larger political and economic union. This is being termed “New Sovereignty” (Chayes, 1998). The amount of sovereignty a state enjoys depends on how it structures relations among states in the international system. The amount of power a state possesses is proportional to the sovereignty it enjoys and the powerful the state, the more powerful its sovereignty is. Stronger states strengthen the sovereignty of weaker states, and therefore weaker states will try to increase their relative power by being in association with stronger states.

Sovereignty has evolved intersubjectively from the Treaty of Westphalia to the present, and is a dynamic outcome of the ongoing efforts by states to structure their relationships in specific ways. When states uniformly accept international agreements, those agreements become norms. The sovereignty of states is recognised and accepted, rather than being something they inherently possess when entering the international arena. According to Barry Buzan, the security of states relies primarily on their immediate neighbours, forming what he terms a Regional Security Complex (RSC), which divides the world into distinct regional security frameworks. Middle East RSC and the South Asia RSC, etc., where any security threat or instability in any state spreads faster among the states. The

states in an RSC share a common history, culture, etc. The segregation of the international system into regional complexes explains the security threat. These states, under the complexities of the regions, are better situated to resolve localised security issues. States therefore have reconfigured their sovereignty to the regional level through regional organisations, etc to have more control over their sovereignty. They have to increase their power capacity, either relative or direct, which would equate to controlled sovereignty and deter external infringements.

Conclusion

In Eurocentric terms, the Treaty of Westphalia can be argued as the point where the sovereignty of states, as understood in present international relations for European nations. However, it is observed that sovereignty as a concept has evolved intersubjectively over a long period of time, keeping Europe as the basis of relations. Sovereignty has been redefined and reconfigured to sustain the dominance of the European nations in international relations. Despite this, sovereignty exists only as a concept, but actual sovereignty is still possessed by the stronger states in history as well as in contemporary times. This is something that countries in the Global South acknowledge: the more power a state possesses, the more powerful its sovereignty is, which has led to the formation of regional organisations to deliberate security issues affecting all states in a region, as security threats travel faster among countries in a region. The stronger states have challenged the sovereignty of weaker states through institutionalisation. Regional organisations act as a way to increase weaker states' sovereignty in a collective way and act as a first shield from external intervention.

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