STATE SOVEREIGNITY IN INTERNATIONAL RELATIONS

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Abstract: The aim is to present the significance of state sovereignty trough a theoretical overview and analysis of the important concept in the realm of political theory - the notion of sovereignty.
Also the paper will seek to create a comprehensive but easily understandable definition of sovereignty and its importance in international relations, especially in recognition of states. In this respect, the paper will clarify the concept of sovereignty, taking into consideration the transformations and challenges of the international security environment at the beginning of the 21st century.
The paper presents the issue of state sovereignty in the field of international relations, where states, although theoretically equal among themselves, are hierarchically ranked according to their national performances which are eventually converted into power at the international level. It is analyzed, based on exploring the existing literature in the area of interest and with the help of direct observation, how the independent and sovereign states are able to integrate themselves into the international political context.
Keywords: states; international politics; international law; foreign affairs.

1. INTRODUCTION

The state, in its full meaning is established after the three-year war in Europe and signing of the Westphalia Peace Treaty in 1948 that put the end of it. Since that date onwards, the creation and further development of the state has begun, as a whole that has the following characteristics: (a) constant population; (b) defined territory; (c) authority and (d) ability to establish relations with other countries. The rules that regulate the relations between citizens established with this kind of system, i.e. their rights and obligations towards the country were determined. Different forms of organization of the state authority are established depending on the historic tradition, realities in life, political events and general tendencies in that area. For every democratic country it is equally important to regulate and develop its national and international relations.
The basic sources of international relations are the compulsory norms of the international law (Jus Cogens) and the legal principles recognized by the civilized nations.
With help of the compulsory norms of the international public law and the legal principles recognized by the civilized nations, the international relations of the countries become legal relations or values which are developed with the help of the law. In that context, the law appears as a factor for civilized development of the international relations. But according to the Montevideo Convention (1933), which had put the state in relation to the international law, besides these three elements there is a fourth one needed to be taken into consideration – that is the "capacity to enter into relations with the other states" (The Montevideo Convention, article 1). Thus, the statehood issue is closely connected with the idea of recognition meaning that, in order to become integrated at the international level as a legal standing entity characterized thru rights and obligations, a state should be granted by the international community with its confidence that the factual criteria of statehood have been fulfilled indeed (Dinicu A, 2018).

2. HISTORY AND OPINIONS OF THE SOVEREIGNITY

The landmarks of a modern state as we know today are defined by the Westphalia Peace Treaty[23] according to which the state is constituted by three main characteristics: territory, population and sovereignty, i.e. absolute power of rule[24]. In order to understand the process of recognition better and the different specification which appeared throughout the history, we will first pay attention on the terms *sovereignty* and *statehood*, what sovereignty means and how one state acquires it, and later the manners through which the countries recognize the existence of another country. (Stojanovska-Stefanova at all, 2017)

[23] Peace of Westphalia, Encyclopedia Britannica (www.britannica.com), accessed on June 1, 2016.
[24] The Crisis of the Sovereign State and the "Privatization" of Defense and Foreign Affairs, Heritage Foundation, (www.heritage.org), accessed on June 1, 2016.

Dinicu A, suggest that traditionally when the problem of sovereignty is approached, academics usually explain it by bringing into attention the Peace of Westphalia (in 1648) which is considered to be the starting point of the modern state existence or as Henry Kissinger said "the path breaker of a new concept of international order that has spread around the world" (Kissinger, 2015, pp. 23-24).

As the world becomes increasingly interconnected with routine multilateral agreements, this Westphalian equality between states appears to be dissipating. This struggle between more powerful states and the "sacred" Westphalian notion of equality between states needs to be investigated[25]. (Barnett, M.A., 2017)

Similarly, the narrative that the post-Westphalia world was one defined by a reification of the principle of non-intervention (that is, that the treaties were a 'watershed' moment in the history of international relations) is pure fallacy. As Finnemore (2003, p.10) notes, "there was plenty of military activity across border to change rulers in this period, but people called it war". Considering the inconsistencies in the "Westphalian narrative', and the fact that it is somewhat intellectually dubious to attribute such a wide reaching principle to a singular set of treaties, it is more credible to conceptualise the emergence of the sovereign state order as an ideological struggle rather than as a discrete epiphenomenon of the Peace of Westphalia.

Whilst Onuf (1991), and Merriam (1990) understand sovereignty as emerging from Jean Bodin (with Onuf (1991, p 427) going so far as to say that the history of sovereignty "begins, and all but ends, with Jean Bodin"), ontologically this account is insufficient, as Bodin's theory of sovereignty still conceptualises sovereignty in ecclesiastical terms with the state being a secondary manifestation of religious authority. In book one of his six books of the republic he states that the "sovereign prince is only accountable to god" (Bodin, 1576, in Dickerson et al, 2013, p 29). This is therefore inconsistent with the modern conception of sovereignty in so far as today there is no non positivist authority superior to the sovereign. In contrast, Hobbes understands the 'Leviathan' as being superior to any religious authority, born out of fear of religious war stemming from the religious dimension in the English civil war (Jonathan Ian White, 2019)[26].

Since the end of the Cold War era, there has been a proliferation of scholarly works devoted to state sovereignty. Most of these either approvingly announce the phenomenon's decline, demise, or transformation, or else call into question whether the phenomenon ever existed or mattered in the first place. A countervailing (though much smaller) set of works, presenting the diminution of sovereignty as a threat to important values, proposes policies aimed at bolstering or restoring the phenomenon. (Brad R. Roth, 2004)[27]

A prevailing fallacy in the literature is to place the Peace of Westphalia at the centre of the emergence of the international sovereign state system. For example, Morgenthau (2006, p 294) states that "the rules of international law were securely established in 1648". Similarly, Boucher (1998, p 289) supposes that Westphalia "provided the foundation for, and gave formal recognition to, the modern states system". This narrative is so ubiquitous that quotes such as these can be "multiplied at will" (Osiander, 2001, 261). However, it is factually problematic. On one level, as Osiander (ibid, p 261) points out, there is nothing explicit in the treaties of Munster and Osnabrück which codify the principles that we know as Westphalian sovereignty, and it is certain that the participants of the negotiations "did not see themselves establishing a new political entity called 'the state'" (Havercroft, 2012, p 122).

3. SOVEREIGNTY AS ELEMENT FOR DEFINING STATES

Sovereignty denotes supreme and independent authority over certain territory and its *population*. This type of interpretation which is a part of a broader definition regarding the notion of state, plays a significant role in each aspect of the international relations and international law because it indicates that no one else, referring to another state, has no right to impose and implement laws on the territory of a sovereign state. According to which, the law of using force aiming law enforcement depends solely on the governing organ, meaning the Government, the Presidents or a divided sovereignty between both institutions. Hence, if a state acquires sovereignty recognized by other states, they acknowledge its governing over a certain territory and population and withdraw the possibility to interfere the state internal matters they have recognized (Stojanovska-Stefanova, A & Atanasoski D, 2016[28]).

Sovereignty is generally divided into:

-Internal and External.

[25] Barnett, Michael Andrew. 2017. Quantifying Sovereignty: A New Way to Examine an Essential Concept. Master's thesis, Harvard Extension School.

[26] Jonathan Ian White. 2019. A Critical Reflection on Sovereignty in International Relations Today (e-ir.info), accessed 12.01.2020

[27] Brad R. Roth. 2004. The enduring significance of state sovereignty. Florida Law Review.

[28] Stojanovska-Stefanova, Aneta and Atanasoski, Drasko (2016) *State as a Subject of International Law.* US-China Law Review, 13 (1). pp. 25-33. ISSN 1548-6605 (Print) ISSN 1930-2061 (online)

Internal sovereignty is determined by the state organ with the authority for exercising the power while *external sovereignty* depict the role of the state as a sole in the international community and the attitude towards the state as to the bearer of rights and obligations in relation to other states in international law.
Considering the significance of the term sovereignty the importance and role of the decision whether a country will be internationally recognized or not is becoming clear, as well as the necessity of each territory and people aspiring to become state to provide the conditions for acquiring sovereignty.

4. FIVE MANNERS TO ACQUIRE SOVEREIGNITY

Sovereignty is generally acquired in five manners, out of which four are being recognized by the international law[29].
The **first manner** is through settling to "no man's land" or land on which no one had previously claimed rights for sovereignty, or if it was under possession previously and this possessor has withdrew their sovereign rights over the country thus removing the obstacles for a new or another country to realize its sovereignty over that territory.
The **second manner** is connected with the first and anticipates attaining of sovereignty through the same exercise for a longer period on the territory without another state disputing that right.
Separation is the **third manner** through which the sovereignty can be attained, but it needs to be conducted in accordance with the state in which this separated territory has been part of. Thus the transfer of the rights from one to another sovereign is made in such way, most often through agreement, so the modern trends and arousing of the idea for self-determination impose the new sovereign to gain the consent from the population whose territory requests sovereignty before acquiring it. Such case represents the uniting on Eastern and Western Germany which was occupied by four countries –USA, France, Great Britain and Soviet Union. All of them have given consent for implementation of this process and withdrew the sovereign right over its part from the German territory for which the citizens have expressed themselves positively.
The fourth one out of the mentioned five methods nowadays is not considered as a legal manner for attaining the sovereign because it is based for acquiring what is announced as illegal by the United Nations and as such is considered in its Charter that has been signed and ratified by each member state.
The fifth and the final type for setting the right for sovereignty over certain territory concerns if it is established as an additional part of already existing territory through a manner of natural growth such as sedimentation or volcanic activities.

5. REFLECTION ON SOVEREIGNITY IN INTERNATIONAL RELATIONS

Sovereignty is one of the foremost institutions of our world: it as given political life a distinctive constitutional shape that virtually defines the modern era and sets it apart from previous era (Jackson R., 1999).
The importance of the sovereignty can hardly be overrated. It was a formidable tool in the hands of lawyers and politicians, and a decisive factor in the making of modern Europe (A.P.d'Entreves, 1970).
Dinicu A (2018), argues that two aspects are brought into discussion in connection with the external sovereignty; state recognition and state power. The issue concerning the relationship between sovereignty and international relations is not only complex, but also debatable. The picture can be extended by analyzing problems like contemporary international law, international democracy, human rights, intervention, foreign aid, international organization, and globalization.
Also, it is important to be emphasized that the recognition of the countries in the international law is common and very complex legal institute which is strongly determined by the political circumstances. While considering the recognition of one country by another and how that influences on its existence and operation, one comes to the most inaccurate part of the international law and customs. There is no specific rule to date according to which one country becomes internationally recognized and enjoys the right to statehood and the right to participate as equal to other countries in various international organizations. (Grant Thomas D., 1999)[30] There were attempts to establish universal criteria for obtaining the said statuses and possibilities but no one managed to affirm itself as relevant and respected by all countries in the world.
The international relations are subject to regulation of the constitutional regulation because the national law depends of the international law.
The best evidence for that are those constitutions that contain provisions for transferring part of the state sovereignty to the international institutions or envisage obligation for harmonization of the national legal order with the commonly accepted rules on international level. The mutual dependence between the national and international law

[29] Annual Yearbook –Law Faculty, Goce Delcev University –Stip (2009), "Process and Methods for Recognition of States", author Aneta Stojanovska, Published by 2nd August-Stip page.267, ISSN 1857-7229.
[30] Grant Thomas D., (1999), *The recognition of states: law and practice in debate and evolution*, Prager Publishers.

is in the function of acting of the independent countries towards protection and promotion of world peace. (Stojanovska-Stefanova, A at all, 2017)

Referring to the veracity of the theory of sovereignty over the international system, especially focusing on the theories set forth in Boden's work, we note that there is controversy here. The external dimension of sovereignty stems from Boden's opposition to the hierarchical conception of the world order and its replacement by a system of sovereign and equal states.

Because sovereignty is defined as a supreme authority unlimited by any other, sovereignty begets equality in a system of multiple states defined as sovereign. On the other hand, sovereignty for Boden is the basic principle of the internal order of a state and his intentions were not to produce an international order in which states are above the law.

The United Nations, currently has 193 member states, with the exception of the Vatican (which is the only permanent observer state), all internationally recognized and independent states are members. Other political entities, namely the Republic of China (Taiwan), the Democratic Republic of the Sahara (Western Sahara) and Palestine, have de facto independence and / or some international diplomatic recognition from certain countries but are not members of the UN. Membership in the United Nations is open to all peaceful states that accept the obligations of the United Nations Charter and, in the assessment of the organization, are capable and willing to meet those obligations. The General Assembly determines the admission upon the recommendation of the Security Council.

States are real entities, not legal entities - this is an accepted interpretation of international law that the International Court of Justice has confirmed in the case of Kosovo. In other words, internal sovereignty precedes external sovereignty, not the other way around.

6. PROTECTING SOVEREIGNITY IN GLOBALIZED WORLD

The recognition of a country at the international level is also reflected through its membership in the United Nations (UN). Membership in this world organization removes all dilemmas about the independence and sovereignty of any country. This is because in order to become a member of this international institution, it is necessary to gain the recognition of the five member states of the Security Council, the United States, Russia, China, Great Britain and France, without whose decision (Resolution) it is not possible to achieve of membership. But it is important to note that there is no obligation (in the UN Charter) that obliges member states, upon the new state's accession to the UN, to establish "full political and legal recognition" with it through the establishment of bilateral diplomatic relations.

Globalization as a phenomenon that spreads all over the planet, hence covers the territories of internationally recognized and well-established countries but also developing countries, strives to ensure international recognition. Globalization is a phenomenon that conditionally violates the sovereignty of states and transcends national borders, applying liberalization of the economy erases the national borders of states, eliminates national restrictions on trade, while seeking to create its own civilization that will unify the culture of peoples in different countries of the world.

The basic norm of the UN Charter (article 2) enshrines the principle of equal sovereignty and its corollary, the doctrine of non-intervention. The United Nations Charter outlined the conditions of sovereignty which reinforce members' identities as states operating within a cooperative framework, and define the parameters within which expectations are set regarding organizational goals such as the maintenance of peace and security in the world.

"The time of absolute and exclusive sovereignty, however, has passed: its theory was never matched by reality. It is the task of leaders of States today to understand this and to find a balance between the needs of good internal governance and the requirements of an ever more interdependent world"-said Secretary General Boutros Boutros-Ghali confronted the tension between sovereignty and security in his 1992 report "An Agenda for Peace".

Respect for sovereignty pervades three aspects of the international legal order's basic structure (Brad R. Roth, 2004):

(1) The recognized sources of law;

(2) The interface between the international and domestic legal systems; and

(3) The fundamental stricture against coercive interference in the internal affairs of states.

That is to say, sovereignty entails three presumptions:

(1) A state is presumed to be obligated only to the extent of its actual or constructive consent;

(2) A state's obligations, while fully binding internationally on the state as a corporative entity, are presumed to have direct legal effect within the state only to the extent that domestic law has incorporated them; and

(3) The inviolability of a state's territorial integrity and political independence, as against the threat or use of force or "extreme economic or political coercion, is presumed to withstand even the state's violation of international legal norms.

According to Roth (2004) "these hurdles are subject to vigorous jurisprudential debate. If one imputes to international law an inherent purpose to establish a universal justice that transcends the boundaries of territorial communities, the presumed state prerogatives unquestionably impede the global advance of legality". Roth underlines that those who understand the project of international legality in this way, therefore, typically portray sovereignty as the unconquered domain: a realm of lawlessness that must recede for international law to advance.

As Jackson, R.,1999 noted "sovereignty is one of the foremost institutions of our world: it has given political life a distinctive constitutional shape that virtually defines modern era and sets it apart from previous eras".

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As a concept that seems to resonate mainly with the international law, sovereignty cannot be excluded from the international relations. Being a feature of the modern state, it will continue to be subject of debates and analysis as long as the state will rock the international system. Krasner, 2009, argues that one should never forget that the state "has a keen instinct for survival and has so far adapted to new challenges".

7. CONCLUSIONS

Sovereignty means supreme and independent authority over a certain territory and its population. This interpretation, which is part of the broader definition of what a state is, plays a huge role in every aspect of international relations and international law because it means that no one else, alluding primarily to another state, has the right to prescribe or implement laws on the territory of a sovereign state. Thus, the right to use force for the purpose of enforcing the law lies solely in the hands of the holder of power, be it the Government, the President or a divided sovereignty between the two institutions.

Hence, as soon as a state acquires sovereignty and it is recognized by other states, they recognize its sovereignty over a certain territory and population and give up the possibility of interfering in the internal affairs of the state they have recognized.

The regulation of the relations in the states is as old as the existence of the state itself. Today, the scientific public has a huge number of information about the origin, the features of the state and its modifications in the development. The state is a kind of a "legal person" that is recognized by the international law. We recognize the state as a subject of the international law through the legal criteria that determine it: permanent population, defined territory, sovereign authority, legal capacity to enter into relations with other subjects of the international law and will to respect the basic principles and norms of the international law.

The state and the law were the subject of interest in the early stages of the development of the civilization. Legally speaking, the act of "recognition" of the state is a legally-formal act and it does not directly affect the essential independence and existence of the state (the effectiveness of its existence), but often the failure to recognize one or more countries can create serious difficulties for the new state and its further involvement in the international relations. In today's circumstances, we are witnesses that although the law has been created to be respected as a kind of an "absolute truth" for the states, it is nevertheless relativized by the "great powers" on a daily basis, and the individual cases only confirm this.

The state sovereignty in the field of international relations in which states although theoretically equal among themselves are hierarchically ranked according to their national performances which are eventually converted into power at the international level. Also the direct observation of states proves that independent and sovereign states are able to integrate themselves into the international political context.

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