CHAPTER

32 Sovereignty 🔓

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Abstract

Sovereignty has borne too many conflicting meanings over the centuries. Nevertheless, there arguably exists a definition of sovereignty that is flexible enough to accommodate much of the concept's historical diversity yet concrete enough to be meaningful: supreme authority within a territory. Authority—"the right to command and correlatively, the right to be obeyed," in Robert Paul Wolff's definition—implies that sovereignty is a matter of right or legitimacy, not one of mere power. But authority alone does not specify sovereignty; plenty of holders of authority exist who do not have sovereignty. Another ingredient is crucial: supremacy. The holder of sovereignty's authority is highest and may not be questioned or opposed. Supremacy was stressed by sovereignty's first modern articulators, sixteenth-century French philosopher Jean Bodin and seventeenth-century English philosopher Thomas Hobbes, and has been reflected widely by users of the concept ever since. A final ingredient is territoriality. This is the principle that defines the set of people who live under the holder of sovereignty, or the supreme authority.

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The Concept of Sovereignty

SOVEREIGNTY ought to be scuttled, more than one scholar of international affairs has suggested. It has borne too many conflicting meanings over the centuries to be defined stably, some skeptics say (Oppenheim 1905; Carr 1964; Falk 1993; Bartelson 1995). It is morally odious, others such as philosopher Jacques Maritain say (Maritain 1951).

But there arguably exists a definition of sovereignty that is flexible enough to accommodate much of the concept's historical diversity yet concrete enough to be meaningful: supreme authority within a territory.

To pose such a definition is not to offer a moral defense of it but rather to specify a concept that continues to serve as the chief organizing principle of the international states system, for better or for worse.

Each term in the definition expresses an important dimension of the concept. Authority—"the right to command and correlatively, the right to be obeyed," in Robert Paul Wolff's definition (Wolff 1990)—implies that sovereignty is a matter of right or legitimacy, not one of mere power. Legitimacy here does not mean intrinsic moral validity, a different issue, but rather some sort of consensually conferred authoritative sanction, whether this be natural law, a divine mandate, a constitution, or international law. Virtually everywhere in the world today, sovereignty is buttressed by law. The United Nations Charter enshrines the principle, whilst a vast majority of the world's states have a constitution that specifies who the holder of sovereignty is.

But if sovereignty's authority is a matter of legitimacy, not mere power, it must also correspond to actual practice. A colony or independence-seeking nation, for instance, can assert a right to sovereignty or even call itself a sovereign, but until it actually exercises authority over its own affairs vis-à-vis outsiders and its own people, it cannot meaningfully be said to hold sovereignty. Sovereignty for it is only an aspiration.

But authority alone does not specify sovereignty; plenty of holders of authority exist who do not have sovereignty. Another ingredient is crucial: supremacy. The holder of ↳ sovereignty's authority is highest and may not be questioned or opposed. Supremacy was stressed by sovereignty's first modern articulators, sixteenth-century French philosopher Jean Bodin and seventeenth-century English philosopher Thomas Hobbes, and has been reflected widely by users of the concept ever since.

A final ingredient is territoriality. This is the principle that defines the set of people who live under the holder of sovereignty, or the supreme authority. People are members of a political community, it proposes, by virtue of their residence within a set of geographic borders. Like supremacy, territoriality is a feature of modernity. In Europe by the seventeenth century, it had become the continent-wide *de facto* organizing principle for politics. Some international-relations scholars have noted the parallel between sovereignty and private property, also a modern principle based on territoriality (Kratochwil 1986; Ruggie 1993). In the thought of Thomas Hobbes, the two principles run in parallel. To be sure, territoriality has existed in other times and places, but never so pervasively. Elsewhere, principles of membership such as kinship, tribe, religion, and feudal ties have enjoyed great prominence as well. In medieval times, people were members of Christendom by virtue of their religious affiliation, one that followed them wherever they traveled. Most sharply opposite from territoriality is the wandering tribe, whose membership principle is connected only remotely, if at all, to a particular land. As self-determination and irredentist movements make clear, territoriality often does not succeed in defining membership so as to correspond with the identity of a "people" or "nation." Yet, it is still the organizing principle to which separatist peoples aspire, underlying its ubiquity. Even supranational and international institutions like the European Union and the United Nations do not supersede territoriality, for they are composed of states that are themselves based on the principle of territorial membership.

To reassemble these ingredients, then, sovereignty is supreme authority within a territory. Within this general definition, an astonishingly diverse array of claims has been put forth over the centuries as to who is entitled to hold supreme authority within a territory. It is often particular claims about who the holder of sovereignty is or ought to be around which political philosophers and constructers of ideology have built their thought. Monarchs have claimed sovereignty according to the divine right of kings; Rousseau bequeathed sovereignty to the general will; colonists have claimed sovereignty over and against empires; nationalists claimed it for nations based on liberal republican principles in the wake of the French Revolution; communists, fascists and theocrats have claimed it, too. Today, the Vatican, Iran, Lesotho, and the United States are all sovereign states. Such diversity is testimony to the adaptability and survivability of the principle. Despite its remarkable breadth, though, the diversity can be organized somewhat through

three dimensions along which forms of sovereignty vary: the holders of sovereignty, the absolute or non-absolute character of sovereignty; and the configuration of the internal and external dimensions of sovereignty.

As the above examples illustrate, sovereignty can be held by diverse authorities and actors. Bodin and Hobbes thought that the sovereign was above other sources of positive law, though Bodin, and arguably

Hobbes, too, considered the sovereign ↳ bound by the divine and natural law. Both preferred monarchs (Hobbes 1968 [1651]; Bodin 1992 [1576]). Over time, new concepts of sovereignty's holders would arise. Democratic theorists would speak of popular sovereignty. Most modern liberal democracies today conceive of sovereignty as exercised by the people ruling through a constitution.

Perhaps surprisingly, sovereignty can also be absolute or non-absolute. This is surprising, because it might seem that supremacy implies absoluteness. But, whilst supremacy is always an attribute of sovereignty, it is possible that a holder of authority might be sovereign—or supreme—in some affairs whilst it is not sovereign in others. Absoluteness is a matter of the scope of authority: Is the holder of authority sovereign in all affairs or only some? Throughout much of the era of the modern states system, states considered sovereignty absolute. But, in certain instances, sovereignty has been non-absolute. To the extent that the UN may legitimately authorize or undertake intervention in states where genocide or other massive human rights are taking place, these states' sovereignty is non-absolute. In the matter of human rights, its authority is subject to outside oversight and interference. European federation, originating in the European Coal and Steel Community in 1951, has also yielded non-absolute sovereignty as member states have "pooled" their sovereignty regarding certain matters into international institutions (Keohane and Hoffmann 1991). Over decades, the range of these matters has only widened. The European Union, established in the 1992 Maastricht Treaty, for instance, created a common currency among eleven of the member states and even set goals for increased collaboration in foreign and defense policy. Along with the common market established in the 1950s, these matters are ones where sovereignty is, or is destined to be, non-absolute. Other, less sweeping, developments in international law and organization have also curtailed the absolute sovereignty of the state. The boundaries of absolute and non-absolute sovereignty are ever shifting and evolving.

A third distinction—that between internal and external sovereignty—describes not so much different kinds of sovereignty, but different aspects of sovereignty wherever it exists. A holder of sovereignty wields authority within a territory but also, at the same time, vis-à-vis outside states and organizations, from whom it may legitimately expect non-interference. This right to non-interference from the outside in a state's own basic prerogatives of authority is external sovereignty. It corresponds to what international legal scholar Alan James (1986) calls constitutional independence. In the modern states system, it is the state that enjoys external sovereignty vis-à-vis other states. Indeed, by the seventeenth century non-intervention in the affairs of other states had become a basic norm of the European states system. In the twentieth century, the United Nations Charter established it for the entire world through its clauses affirming "territorial integrity" and "political independence." Yet, just as the boundaries of absolute and non-absolute sovereignty evolve, so, too, the area in which states are externally—and simultaneously internally—sovereign shift, too.

What has been described here is the principle of sovereignty, one that has formed the foundation of the

international states system since roughly the Peace of Westphalia in ↳ 1648. But to describe the principle is not to assert the sanctity of its practice. In his important work *Sovereignty: Organized Hypocrisy* (1999), political scientist Stephen D. Krasner catalogues states' frequent violations of sovereignty over the history of the states system, whether through contracts, conventions, coercion, or imposition. States have intervened regularly in other states; the Federal Republic of Germany was subject to Allied supervision during the cold war; through the European Court of Human Rights, European states commit themselves to the arbitration of human rights disputes. But, in making his case for the many instances in which

sovereignty is violated as a "regulative" norm of the international system, Krasner overlooks another, deeper role for rules—their constitutive role (Rawls 1955). Sovereignty is the principle that constitutes states and the rules by which they are to interact in the first place. It is violated, to be sure, but it also defines the very rules that are subject to violation. In this constitutive sense, sovereignty has enjoyed profound success over the centuries. It is the only principle of political organization and membership in human history to cover virtually the entire land surface of the globe (this critique draws from Philpott 2001*b*).

Sovereignty Ascendant

The history of sovereignty can be told as a double movement. The first vector is a trajectory of centuries, first toward a European sovereign states system, triumphing around the time of the Peace of Westphalia, then toward a globalization of the sovereign states system, culminating in the wave of colonial independence in the 1960s and 1970s. The second movement, beginning well before the first culminated, is the curtailment of absolute sovereign prerogatives, most dramatically in the second half of the twentieth century, especially in the launching and development of European federation and in the rise of internationally sanctioned intervention following the end of the cold war. Running in the opposite direction from the development of a sovereign states system around the time of Westphalia, this second movement involves the development of international norms that consensually circumscribe sovereignty. Both of these historical movements were attended by corresponding movements in the history of ideas.

The movement toward a sovereign states system in Europe appears most vividly in relief against Europe during a period in which little sovereignty existed at all: the High Middle Ages, roughly between the eleventh and the thirteenth centuries. Then, both the pope and the Holy Roman Emperor exercised authority over affairs within the territories of kings and nobles, but so, too, kings and nobles exerted checks on the authority of the pope and the emperor. Vassals often paid fealty not only to their lord but to other authorities living outside their lord's territory. The pope and other bishops exercised authority that was by any modern definition temporal, leading crusades, adjudicating political disputes, levying taxes, holding and governing large tracts of land, and serving as advisors to princes, whilst temporal authorities exerted

important prerogatives over ↳ the Church, exercising a hand in its appointment of bishops, and, most of all, at times coercively enforcing religious adherence. The *Respublica Christiana* was held together by a common religion, that of the Catholic Church. Contrasting this configuration with the modern states system, international relations theorist John Gerard Ruggie calls it "heteronomy" (Ruggie 1986).

Gradually, over the next three-and-a half centuries, Europe shedded this heteronomy piece by piece, eventually arriving at a uniform replication of one particular form, the sovereign state. Around 1300, Britain and France began to look like sovereign states, historian J. R. Strayer (1970) has argued; Spain and Sweden followed in their wake. But Europe remained distant from a sovereign states system as late as the early sixteenth century. It was then that King Charles V united Spain, exerted rule over the Netherlands, and became Holy Roman Emperor, gaining rights over lands in Central Europe and becoming the armed enforcer of the Catholic Church's temporal rights as well as religious orthodoxy inside the Holy Roman Empire. But he was not sovereign within the Empire, either. A stride toward a sovereign states system was the 1555 Peace of Augsburg, which allowed German rulers to enforce their faith, Catholic or Protestant, within their own territories according to the formula *cuius regio, eius religio.* The settlement remained highly contested, though, leading ultimately to the Thirty Years War, which did not end until the Peace of Westphalia in 1648. Significantly, one of the chief dissolving agents of medieval unity was the Protestant Reformation, for it was religion that had held together the heteronomous authority structure of medieval Europe (Philpott 2001*a*). Scholarly dispute now exists over whether Westphalia is properly viewed as the origin of modern international relations (Krasner 1993; Osiander 2001; Philpott 2001*a*; Teschke 2003; Straumann 2007; Nexon 2009). It is hard to deny, though, that roughly in the middle of the seventeenth century the long

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transmogrification of the European continent from medieval heteronomy to a modern states system was consolidated. This new authority structure, which might be called the Westphalian Synthesis, consisted of five historical strands. Each strand expresses a dimension of the sovereignty that emerged; importantly, each also represents a diminishment of the temporal powers and unifying effect of the medieval Catholic Church.

The emergence of the sovereign state as virtually the sole form of *de facto* constitutional authority on the continent and the accompanying decline of the transnational authority of the Holy Roman Empire at and in the wake of the Peace of Westphalia represent the first strand. The second strand was a general diminishment of international intervention, proscription of which was to become a defining norm of the international system in the eighteenth century. Since the primary occasion for armed intervention after the Reformation began in 1517 was the enforcement of religious uniformity (or defense of religious diversity), reaching a climax in the Thirty Years War, the fading of intervention indicated the fading of religion's political role. A corresponding third strand was a general, continent-wide "Erastianism" by which churches became subordinated to the authority of states. Throughout Germany, as well as in Sweden, England, and Scotland, Protestant churches had generally placed their governance under the authority of monarchs.

p. 566   Reformation historian Euan Cameron ↳ (1991) writes of the Lutheran churches that they "became very largely departments of state in their respective territories." In Catholic France, too, the king asserted increasingly strong control over the Church during this period. Still rare in Europe, either in practice or in political thought, was a principled endorsement of individual religious freedom. The fourth strand complements the third: a sharp decrease in the temporal powers of religious authorities. Less and less did Catholic prelates hold office, raise revenue, or rule large tracts of land. True, the Papal States and ecclesiastical temporal prerogatives persisted, but these prerogatives were becoming more and more rare— just as the Protestant reformers had hoped. The fifth strand was the rise of nationalism as an identity and source of loyalty. Challenging a previous wave of scholarship that located the origins of nationalism in nineteenth-century European industrialization (Anderson 1983; Gellner 1983; Hobsbawm 1992), a more recent wave of scholarship dates these origins instead in sixteenth- and seventeenth-century Britain, France, Spain, Germany, and Sweden and identifies religion as one of nationalism's key formative sources (Colley 1992; Hastings 1997; Marx 2003; Smith 2003). Redirecting loyalties toward the state, nationalism reinforced further the Westphalian authority structure.

Over the next three-and-a-half centuries, the sovereign states system expanded over the face of the globe through a sequence of colonization and eventual dissolution of colonial empires into replicated political forms: first in Latin America, then in South Asia, then in Africa and elsewhere. Today, the world consists of 195 states.

As Europe underwent its long transformation from the Middle Ages to Westphalia, certain contemporary philosophers came to embrace and espouse the idea of sovereignty. Reflecting the role of religion in the transformation and construction of authority, most of them sought not only to elevate the state but to diminish the powers of prelates, especially those of the Catholic Church.

Bodin and Hobbes were early modern Europe's two most prominent articulators of sovereignty. Bodin was the first European philosopher to write about the concept systematically, as he did in *The Six Books of the Commonwealth* (1992 [1576]). Writing in the midst of a generation-long civil war between Calvinist Huguenots and the Catholic monarchy that tore France apart, he reasoned that only in a unified political body whose authority was above and indeed the source of other human law could order and peace be restored. The medieval notion of segmented and dispersed authority would have to be laid to rest. The authority that he described was sovereignty.

The holder of sovereignty, Bodin thought, was obliged to obey natural and divine law. He also forbade the sovereign from confiscating property and breaking agreements with other sovereigns. But these obligations

he regarded as moral ones, not ones that were subject to the appeal or judgment of any other human authority. In this sense, sovereignty for Bodin was absolute. Finally, Bodin thought that a government with sovereign powers could take the form of a monarchy, aristocracy, or democracy—Aristotle's three categories of regimes. Monarchy, though, was the form that he favored.

Hobbes also wrote amidst civil war and came to see sovereignty as the only hope for solution. Sovereign authority, he thought, was erected by people inhabiting a ↳ precarious state of nature, one that they escaped by means of a contract through which they alienated their natural right to protect themselves to a Leviathan. The Leviathan, a mortal god, held supremacy, standing above the law and remaining free of any obligations to other authorities. Law was in fact the Leviathan's own command; others were absolutely obliged to obey it. Religious authorities were to be shorn of temporal prerogatives; the sovereign would be head of the Church. Only the Leviathan could tame the chaos that religion brought to the realm.

Two other early modern thinkers are notable for this discussion, neither of whom explicitly discusses sovereignty but both of whom call for something very much like it and envision a stripped down Catholic Church. The first is Italian Renaissance philosopher, Niccolò Machiavelli. Concerned with establishing a well-ordered, prosperous state during a time of destructive conflict between Italy's city states, Machiavelli sought to describe what the behavior of a prince ought to look like. He did not want the prince to be constrained by natural law, the laws of the Church, or any norm that manifested the obligations of Christendom, but rather to be prepared "not to be good" and to do what was necessary for the unity of the state. Unbound by the laws of the Church or even by natural law, the prince would, in effect, be supreme within his territory, a singular, united body.

The second is Martin Luther, whose theology advocated just the denuding of the Catholic Church's temporal prerogatives that would take place over the next century-and-a-half in Germany and elsewhere. He envisioned two forms of governance, what he called "the realm of the spirit," which pertained to the soul of the believer, and "the realm of the world," the order of secular society where governmental institutions were run by magistrates through law and coercion. Both realms realized certain goods, but goods that separate authorities ought to provide, with church leaders enacting spiritual duties, and princes and other secular rulers performing temporal duties. This meant that ecclesiasts would stop raising taxes and armies, and holding temporal offices. Taking up these dislodged powers were territorial princes, who, indeed, would now monopolize temporal authority: Erastianism, sovereignty. "By the destruction of the independence of the Church and its hold on extra-territorial opinion, the last obstacle to unity within the state was removed," wrote political philosopher, J. N. Figgis. He continues: "The unity and universality and essential rightness of the sovereign territorial State, and the denial of every extra-territorial or independent communal form of life, are Luther's lasting contributions to politics" (Figgis 1916 [1907]).

Philosophers continued to take up the concept of sovereignty over the course of the Westphalian era in international politics. Proponents of international law like the eighteenth-century philosopher, Emerich de Vattel, adopted roughly the Westphalian notion of sovereignty, coupling it with his stress on the equality of states in the international system. Rousseau built upon but also revised the work of Bodin and Hobbes by endorsing sovereignty but placing it in the collective will of the people within a state. Popular sovereignty would inform the French Revolution and its legacy of liberal republicanism.

In the twentieth century, a vivid defense of sovereignty reminiscent of Hobbes and Bodin was propounded by German philosopher, Carl Schmitt, in his *Political Theology*, originally published in 1922 (Schmitt 1985 [1922]). "Sovereign is he who decides on the exception," reads the first line of that book. That is, the sovereign is one who can and ought to place himself above the law, especially in times of emergency when the sovereign must act to save the nation. Schmitt decried liberal nationalism, which he thought naive and insufficiently cognizant of the role of power in politics. Having set forth these ideas during the crisis of

Weimar Germany, Schmitt became an ardent supporter of the National Socialist regime during the 1930s—a regime whose use of emergency powers embodied his conception of sovereignty.

Sovereignty Challenged

Against the vast historical trajectory of sovereignty's rise and spread runs a vector toward the curtailment of sovereignty, at least absolute sovereignty. It can be found in minority treaties imposed on East European states by Western powers in the late nineteenth and early twentieth centuries, in the growth of human rights conventions after the Second World War, in the development of European federalism during the same period, in the rise of internationally sanctioned intervention after the cold war, in the establishment of international criminal tribunals and then the permanent International Criminal Court in the 1990s, in the dispute-resolution mechanisms of the World Trade Organization, and in scores of makeshift arrangements, exceptions, and adaptations to practical reality, the sort that Krasner catalogues so well. In the rise of major conventions and institutions that curtailed sovereignty, the Holocaust was a pivotal historical moment, yielding the Universal Declaration of Human Rights and the origins of European federalism amongst its other upshots.

The Universal Declaration of Human Rights of 1948 left sovereignty intact in a formal sense. A statement of principles, it was not legally binding on states. But its proclamation of over thirty rights of individuals was a first step toward creating an international consensus on states' obligations to the people within their borders. In the 1960s, two international legal covenants—the Covenant on Civil and Political Rights and the Covenant on Economic, Social, and Cultural Rights—created formal, legal obligations amongst states, though a provision of stipulating that these obligations do not interfere with sovereignty again left sovereignty intact. Over the course of the cold war, an international consensus—at least a formal, declaratory one—formed around the idea of human rights through these and other covenants: the Genocide Convention of 1948; the European Convention for the Protection of Human Rights and Fundamental Freedoms of 1950; the Helsinki Accords of 1975; the United Nations Convention Against Torture of 1987; and many others. In the legal obligations of states, however weak their enforcement and implementation remained, sovereignty became limited.

p. 569 Challenging sovereignty—and indeed its long-standing attendant norm of non-intervention—more directly has been the growth of internationally sanctioned intervention after the cold war. Occurring in Iraq in the 1990s, the former Yugoslavia, Bosnia, Kosovo, Somalia, Haiti, Cambodia, Liberia, and elsewhere, this intervention involves the UN or another international organization sanctioning measures, usually involving military operations aimed at remedying some large-scale injustice like genocide or massive starvation, which member states of the UN would have widely considered illegitimate interference in internal affairs prior to the end of the cold war. Crucially, in contrast to peacekeeping operations during the cold war, many of these operations lacked the consent of the target state's government or of the conflicting parties in a civil war. A close cousin of internationally sanctioned intervention—and often conducted hand in hand with it— has been UN peace-building operations, efforts to reconstruct societies that often involve international actors temporarily assuming the duties of sovereign states, including conducting elections and providing protection for citizens. Between 1989 and 1999, the UN sent out thirty-three peace operations, more than double the fifteen missions that it had conducted during the previous four decades (Paris 2004). A steep growth in UN peace-building operations as well as in military operations approved by the Security Council between 1987 and 1994 together constitute what has been called a "UN Revolution." One of the central ideals of this revolution is the circumscription of sovereignty.

The consensus and stability of this ideal ought not to be overstated. US military operations in Iraq in 1999 and 2003 failed to elicit the prior approval of the United Nations Security Council, as did NATO's

intervention in Kosovo in 1999. China, a powerful permanent member of the Security Council, remains highly wary of any measure that would interfere in a country's internal affairs. Notable failures to intervene exist, too, most famously in the case of Rwanda in 1994.

Still, the idea of internationally sanctioned intervention continues to enjoy widespread support within international organizations, member states, and non-governmental organizations. Garnering wide international attention today is *The Responsibility to Protect*, a document produced by the International Commission on Intervention and State Sovereignty (2001), a group convened by the Government of Canada in response to a challenge by UN Secretary General Kofi Annan. Arguing for an international obligation to intervene in countries where genocide and other large-scale sufferings are taking place (subject to a "reasonable chance of success"), the document centers upon a sharp revision of the classical conception of sovereignty. Rather than an absolute notion that frees states from obligations to their own citizens as well as from the oversight of outsiders, sovereignty entails a "responsibility to protect" that may be taken up by outsiders when individual states fail to uphold it toward their own citizens. For a non-absolute and conditional notion of sovereignty, *The Responsibility to Protect* serves as a manifesto in the way that Hobbes's and Bodin's thought stands as classical statements of absolute sovereignty.

p. 570 European integration, described above as a source of non-absolute sovereignty in the case of states, competes in significance with internationally sanctioned intervention as a ↳ contemporary circumscription of sovereignty. It is fitting that, mirroring the early modern theorists of sovereignty's rejection of the temporal powers of the medieval Catholic Church, the most committed supporters of European integration have been Catholic Christian Democratic parties, motivated precisely by a rejection of absolute sovereignty and a desire to recover a civilization based on universal values, values that now include human rights and democracy. Creating a complex conglomerate of prerogatives in which different member states have integrated their affairs in different respects and to different degrees, the contemporary European Union begins to imitate medieval Europe's heteronomy.

As with absolute sovereignty, the idea that sovereignty would be limited and conditioned by international law, institutions, and obligations also enjoys a long pedigree. During the centuries when Bodin, Hobbes, and Machiavelli wrote, so, too, did Christian philosophers such as Francisco Suarez, Alberico Gentili, and Hugo Grotius, who acknowledged the emerging sovereign state as a legitimate institution, but in a presumptive and limited, not an absolute, sense. Each of them recognized the legitimacy of something very much like internationally sanctioned intervention in the case of a cruel prince, justified by values held in common by humankind.

Bertrand de Jouvenel, in his *Sovereignty: An Inquiry into the Political Good* (1957), does not advocate discarding the idea of sovereignty, which is needed for internal order and external defense. But he sharply criticizes what he views as the modern notion of sovereignty, one reflective of Hobbes, in whose "horrific conception everything comes back to means of constraint, which enable the sovereign to issue rights and dictate laws in any way he pleases. But these means of constraint are themselves but a fraction of the social forces concentrated in the hands of the sovereign" (1957: 197). He believes that philosophers writing in the wake of Hobbes, such as Locke, Pufendorf, and Rousseau, "were to feel the lure of this mechanically perfect construction," whatever differences they may have had over the locus of sovereignty and the form of the regime that practiced it (Jouvenel, 1957: 198).

Jouvenel's solution is to constrain the sovereign authority so that it only wills what is legitimate. Crucially, morality has a validity independent from what the sovereign wills. "There are...wills which are just and wills which are unjust," he argues, appealing to the perspective of "Christian thinkers" (1957: 201). "Authority" indeed "carries with it the obligation to command the thing that should be commanded" (1957: 201). But what is capable of constraining the sovereign will? Doubting that the right constitution or design of judicial institutions can be adequate, Jouvenel looks to the shared moral concepts of the citizenry for a check.

Jacques Maritain goes further, unqualifiedly excoriating sovereignty in Chapter 2 of *Man and the State* (1951). "It is my contention," he writes there, "that political philosophy must get rid of the word, as well as the concept, of Sovereignty." This is true, not because it is outdated or ambiguous, but because it is "intrinsically wrong and bound to mislead us if we keep on using it..." (1951: 29–30). To Maritain, Hobbes's and Bodin's notion of sovereignty was idolatry. Their conception rendered the sovereign into an entity transcendent over and unacceptable to the people and the common ↳ good. In fact, the legitimate authority of government is rooted in its relationship to natural law and cannot be transferred to some part of the body politic, whether it be a monarch, the people, or the institutions of the state. Sovereignty undermines the prospect of international law or a federated state, encourages centralized power, and destroys democratic accountability—ideals in which Maritain strongly believes.

If Schmitt and the National Socialists of Germany represented the apotheosis of absolute sovereignty, unaccountable to its own people, outside states and institutions, and least of all a transcendent moral order, thinkers like Maritain, Jouvenel, and the authors of *The Responsibility to Protect*, along with the architects of European federation and advocates of internationally sanctioned intervention, represent an effort to recover the idea espoused by Suarez, Gentili, and Grotius that sovereign authority, like all authority, is accountable to something larger than itself.[1]

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Notes

1   The present chapter draws on Philpott (2001*a*) and Daniel Philpott, "Sovereignty," in Edward N. Zalta (ed.), *The Stanford Encyclopedia of Philosophy*, http://plato.stanford.edu/entries/sovereignty