

# Sovereignty

## Exordium

Sovereignty is the supreme authority within a territory. Sovereignty is the bedrock of international relations. The concept lays out basic rules for how countries are allowed to interact with one another.

Sovereignty is the most exclusive element of State. State alone possess sovereignty. Without sovereignty no state can exist. Sovereignty is the basis on which the State regulates all aspects of the life of the people living in its territory.

In principle, it means countries get to control what happens inside their borders and can't interfere in what happens elsewhere. This protects countries from being attacked over internal matters.

But the concept of sovereignty doesn't play out perfectly in reality. There are limits to the control a country can exercise over what happens inside its borders.

The present concept of state sovereignty consists of four aspects of territory, authority, population and recognition.

[According to Stephen D. Krasner, sovereignty can be understood in different ways and they are domestic sovereignty, interdependence sovereignty, international legal sovereignty and Westphalian sovereignty. In domestic sovereignty, actual control over state is exercised by an authority organized within the state. Interdependence sovereignty refers to the actual control of movement is exercised by borders of the states by assuming that the borders exist. International legal sovereignty refers to formal recognition by sovereign states. The Westphalian refers to the dearth of control on the state than domestic control.]

## Derivation of word Sovereignty

The word Sovereignty is derived from **Latin** word **Supranus** which means Supreme power.

## Meaning

- It is supreme power of the State to take any decision regarding with internal and external matters of the country.
- It makes a state independent & supreme.
- It is internal supremacy & external independence.
- It is free to make its own foreign policy decision without any external pressure.

## Definition of Sovereign

**According to Bodin:**

"The absolute and perpetual (continuous) power within a State is sovereign."

**According to Willoughby:**

"Sovereignty is the supreme will of state."

**According to Garner:**

“State is a community of people live in a definite form of territory free of external control and possessing an organized government to which people show habitual agreement.”

### **Sovereign State**

A State that possesses (holds) an independent existence, being complete in itself.

A sovereign state is a state with its own institutions and populations that has a permanent population, territory, and government. It must also have the right and capacity to make treaties and other agreements with other states.

[State, nation, and country are all terms that describe groups of people who live in the same place and have a great deal in common. But while states and sovereign states are political entities, nations and countries might or might not be.

A sovereign state (sometimes called an independent state) has the following qualities:

Space or territory that has internationally recognized boundaries.

People who live there on an ongoing basis.

Regulations governing foreign and domestic trade.

The ability to issue legal tender that is recognized across boundaries.

An internationally recognized government that provides public services and police power and has the right to make treaties, wage war, and take other actions on behalf of its people.

Sovereignty, meaning that no other state should have power over the country's territory.]

### **Essence/characteristics of sovereignty**

A sovereign is a person or body of person in whom sovereignty resides (exists).

#### **Permanence** (Stability)

Permanence is the chief characteristics of sovereignty. Sovereignty lasts as long as an independent state last. The death of the king, the overthrow (takeover) of the government and the addition of power does not lead to the destruction of sovereignty.

We should keep in mind the basic fact that the king or the ruler exercises sovereign power on behalf of the state and, therefore, sovereignty lasts as long as the state lasts. The death of the king or the overthrow of the government does not affect sovereignty. This is the reason why people in England used to say “The King is dead, long live the King”.

**(Dr. Garner has beautifully summed up this idea in the following manner)**

“Sovereignty does not cease with the death or temporary dispossession (deficiency) of a particular bearer (holder/messenger) or the re-organization of the state but shifts immediately to a new bearer, as the center of gravity shifts from one part of physical body to another when it undergoes (feels) external change”.

**O R**

Sovereignty is permanent and it continues uninterrupted as long as the State exists. Changes in government do not mean cessation of sovereignty. Bearers of the authority of government may change, but the State endures and so does sovereignty. It does not cease with the “death or temporary dispossession of a particular bearer or the reorganization of the State, but shifts immediately to a new bearer as the center of gravity shifts from one part of a physical body to another when it undergoes external change.”

### **Exclusiveness**

By exclusiveness we mean that there cannot be two sovereigns, in one independent state and if the two sovereigns exist in a state, the unity of that state will be destroyed. There cannot exist another sovereign state within the existing sovereign state.

### **All Comprehensiveness**

The State is all comprehensive and the sovereign power is universally applicable. Sovereignty is universal in character and it extends to all persons and associations within its territorial limits. No association or group of individuals, however, rich or powerful it may be, can resist or disobey the sovereign authority. The modern State does not recognize the existence of any enemy within its jurisdiction. There can be neither any person, nor any organization, however universal, which can affect the sovereignty of the State.

Sovereignty makes no exception and grants no exemption to anyone. It grants exemptions only in the case of foreign embassies and diplomatic representatives of foreign countries on the reciprocal basis. This does not in any way restrict the sovereignty of the state in the legal sense. The state can abolish and withdraw the diplomatic privileges granted to foreigners.

### **Inalienability**

Inalienability is another characteristic of sovereignty. Sovereignty is inalienable (not transferable to another or not capable of being taken away or denied). By inalienability we mean that the State cannot part with its sovereignty. In other words, we can say that the sovereign does not remain the sovereign or the sovereign state, if he or the state transfers his or its sovereignty to any other person or any other state.

Sovereignty is the life and soul of the state and it cannot be alienated (separated) without destroying the state itself. Lieber has very suitably remarked in this connection: “Sovereignty can no more be alienated than a tree can alienate its right to sprout (bud/leaf) or a man can transfer his life or personality to another without self-destruction”.

### **Absoluteness**

The sovereignty of the State is absolute and unlimited. It is subject to no legal limitations, either internally or externally. Without sovereignty there can be no State. It is the supreme characteristic of Statehood (the status of being an independent state).

All this is true in terms of law, but there is no such thing on earth as absolute sovereignty. It is through human agency that the sovereign power is expressed and exercised. Man can never be perfect and independent. Dependence is his very nature.

### **Unity**

Unity is the very spirit of Sovereignty. The sovereign state is united just as we are united.

## **imprescriptible**

By imprescriptible, we mean that if the sovereign does not exercise his sovereignty for a certain period of time, it does not lead to the destruction of sovereignty. It lasts as long as the state lasts.

## **Originality**

By originality we mean that the sovereign has power by right of his own right and not by right of anybody's mercy.

## **Dimensions/Types of Sovereignty**

To understand how the concept of sovereignty is used, it is important to have a clear idea of the different types of sovereignty. The sovereignty of the state can be divided into several types as follows:

- Titular Sovereignty
- Internal and External Sovereignty
- Legal and Political Sovereignty
- De Jure and De Facto Sovereignty
- Popular Sovereignty

### **Titular Sovereignty**

The titular sovereign is just only ruler by name, but in reality, is not capable of exercising any effective power. The Queen of Britain, the King of Japan, and the President of Pakistan – all of them are examples of Titular sovereignty.

From the point of view of the law, they are described as the highest source of state power, a symbol of unity and tradition of the country, possessing the highest honor, etc. but the people belonging to the real sovereign power.

### **Internal and External Sovereignty**

It is one of the important types of sovereignty. Internal sovereignty means the sovereign power of the state by which the state exercises ultimate power over all persons, groups, and institutions within it. The law is the ultimate order of the sovereign within the geographical boundaries of the state. According to this law, the affairs of the state are governed. The state can impose severe punishment on the lawbreaker by calling it an internal sovereign.

External sovereignty refers to the sovereignty of the state by which no foreign state will be attacked by a foreign state. Even if attacked, the affected state will be able to make a complaint to the UNO and seek the help of the UNO, by asserting external sovereignty. That is, the external sovereignty of the state means that the state is free from outside control of the external power. One state is completely free from the will and control of another state.

### **Legal and Political Sovereignty**

Legal sovereignty is the ultimate power of the state by which the state legislates and enforces it. Legal sovereign power is the unrestricted (clear) power of the state; no one can disobey it. Britain and Pakistan have the legal sovereign powers, respectively the British Parliament and the Pakistan Parliament. This sovereignty is seen as the ultimate power of the legislative body.

The existence of political sovereignty is not public. Generally speaking, the electorate has political sovereignty. The legal sovereign is elected by the political sovereign. The will of the political sovereign transforms itself into a legitimate sovereign law. Influenced by public opinion and public reaction, the legal sovereign takes its decision.

### **De Jure and De Facto Sovereignty**

This is a French phrase, In law and government, de facto describes practices that exist in reality, even though they are not officially recognized by laws. While, de jure describes practices that are legally recognized, regardless of whether the practice exists in reality.

De jure sovereignty refers to the legal right to do so; de facto sovereignty refers to the factual ability to do so. The rule of law may not be authorized by law even if the powers of the governing body are occupied in reality or in the workplace.

### **Popular Sovereignty**

Popular sovereignty means that sovereignty lies in the hands of the people. The basis of the governing power of the government is public support. The call for the first populist sovereignty was reflected through protests against monarchy in the sixteenth and seventeenth centuries.

In the glorious revolution (1688) of England the partial establishment of the sovereignty of the people was noticed. In John Locke's Two Treatises on Civil Government, it is clearly declared that the king's rule depends on the consent of the people.

Sovereignty's policy became popular even in American independence (1776). The October Revolution (1917) in Russia and the People's Revolution in China (1949) mark two successful steps toward establishing the sovereignty of the people.

## **The Challenges of sovereignty in the age of globalization**

In modern times politicians are often saying that today, the power of making state policy is not fully controlled by any sovereign state. International events determine what is the national policy of a country?

So, sovereignty is facing various challenges. Such as;

### **The World Economy**

Production, distribution, exchange and trade are so international that it is not possible to set policies individually in favor of national states. Industrialization has increased economic dependence which reduced the sovereignty's power. Poor or developing countries depend on rich countries for advanced technology and financial capital.

### **International Organization**

A key feature of the present world is the emergence of numerous international organizations. A variety of regulatory bodies have been developed for various disciplines like space, ocean, and commerce and so on.

With the formation of those international and multinational companies, world politics has undergone many changes in the decision-making process. For example, the International Monetary Fund (IMF) imposes a number of conditions on borrowing to third world countries – such as reducing government spending,

depreciating currencies, and stopping subsidies. Needless to say, this national condition undermines the economic sovereignty of third world countries.

### **International Law**

The restrictions and regulations of international law affect the national state. Although there is controversy over the compelling nature of international law and many describe it as a courtesy call, not a law, its role in world politics is not at all unimportant.

Although the ancient concept of sovereignty does not exist today, a definition of sovereignty can be given in the 21st century. This modern sovereignty can be called cooperative sovereignty.

### **Conclusion**