

# PROTECTING POSITIVE SOVEREIGNTY IN A GLOBALIZED WORLD

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## ABSTRACT

*The article aims to examine whether the concept of positive sovereignty can be useful in understanding which global political justice issues the current international setting raises, and which new institutional solution if any could successfully tackle them. The article adopts a doctrinal approach based on tracing: the problems of sovereignty inherent in the fundamental assumption and ideas of Plato's political epistemology; negative and positive sovereignty in addressing the idea that the problem solves. The article finds out that a global systemic factor can hinder positive sovereignty, and global order could be politically unjust in that it creates unjustifiable systemic obstacles to positive sovereignty. Therefore, the article concludes that what we need is global (political) solutions to global (political) problems by setting up more powerful and independent regulatory institutions to address some of the global systemic barriers to positive state sovereignty.*

**Keywords:** International Law, Political, Sovereignty, Global, Justice, Systemic.

## INTRODUCTION

The concept of sovereignty in international law is a recurring and often controversial theme and this idea has a long history in Western philosophy (Henkin, 1999). Thomas Hobbes attacked the traditional notion of sovereignty by calling it an illusion (Hobbes, 1994). John Locke used the Christian version of the conventional notion of sovereignty to impose on human rights the highest authority and make the power of a State dependent on its defence of those rights (Locke, 2003). In the sense of international law, these and similar views are becoming troublesome. Since international law bases its claims to sovereignty on the traditional concept of sovereignty as absolute, so it undermines the claims of sovereignty by nations. In addition, this undermines the right of each state to self-determination, and eventually raises questions about the ability of states to rule their own people. Conversely, when states base their claims to sovereignty on the idea that the sovereignty of each state is absolute, this means that international law is not sovereign and therefore states are not obligated to heed it. These principles of sovereignty all or nothing vitiate meaningful dialogue, undermining other essential ways of engagement between international law and nations (Lara, 2014).

The idea that a state's survival should not be dependent on, inter alia, the military or economic power it exerts to ensure its stability and avoid intervention from other states has developed over the centuries and has become a fundamental clause in the Charter of the United Nations. States are considered equal under international law just by their status as States. Therefore, sovereign equality is juridical in nature in that, given asymmetries of discrimination in areas such as military power, geographical and population size, rates of industrialization and

economic development, all states are equal under international law. Transposing this theory into actual practice presents problems, especially in decision-making processes in international organisations. If all states are equal, should this also mean equal power in the development of law within international organizations? Because treaties are one of the main sources of international law, if states do not have equal control in international organizations based on treaties this would mean that the will of the mighty will dominate over the poor. Legal equality is therefore hollow if it cannot be converted into functional equality, at least at the level of the establishment of legislation in international organisations (Ansong, 2016).

Global structural architecture—addressing issues such as climate change, human rights violations by non-state actors, non-domestic causes of poverty, and controlling migration, commerce, labour, tax competitiveness, and financial markets—strikes many as today's most pressing challenge. Is the Sovereign State's End? Nevertheless, I believe the point is overemphasized, both from a diagnostic perspective and from a normative viewpoint. Empirically, the argument goes, the idea that the State is weak in the age of globalization is a fallacy (Weiss, 1998); normatively, renouncing state sovereignty would mean abandoning the important value of self-determination (Miller, 2000; Macedo, 2005).

The article aims to explore whether the idea of positive sovereignty can be helpful in understanding the problems of global political justice the current international setting poses and which new institutional approach if any could tackle them successfully. The essay would explore against that backdrop, maintaining meaningful autonomy in a globalized world. In doing so the paper with introduction is divided into four parts.

Part One focuses on the sovereignty problem: Ancient and Contemporary Philosophical Perspective. In Friedrich Nietzsche's views on human reason and epistemology, it suggests that these issues are due to deep-seated weaknesses in the conventional notion of sovereignty and presents an alternative definition of sovereignty derived from key concepts. It starts by looking at the question of sovereignty from the ancient philosophical perspective of the basic assumptions and ideas that form Plato's epistemology and political philosophy.

It further addresses the contemporary issue of sovereignty in the sense of international law by analyzing the terminology and approach to it by Louis Henkin. He also argued that an attempt by Henkin to correct the flawed concept of sovereignty. His initiative, however, is by no means a failure. On the one side, by highlighting the need for a principle of sovereignty of states that is consistent with international cooperation aimed at protecting human rights, Henkin does succeed in pushing the idea in a promising close direction. On the other hand, he is not entirely responsible for the shortcomings of his initiative, since his limited progress was dictated by the weaknesses inherent in the conventional and contemporary concepts of sovereignty with which Henkin operated.

Part two explores negative and positive sovereignty, demonstrating how the distinction between negative and positive aspects of freedom may relate to our knowledge of state sovereignty based on the quasi-state work of Robert Jackson.

Part three focuses on preserving a globalized world with constructive sovereignty. It unpacked the paper's core normative claim, namely: (1) that we should pay more attention to the challenges to positive sovereignty that states currently face; and (2) that the establishment of a supranational regulatory body could well prove to be the best way to address some of the global structural barriers to the positive sovereignty of (some) states.

It further claims that the global order could be politically unequal in that it establishes unjustifiable structural obstacles to effective sovereignty. The paper approaches the project of global institutional architecture from a normative justice perspective, but both its intent and its rationale differ significantly from the main concerns of the most developed literature in this field at the moment, namely that on global distributive justice. In making a case for global regulatory bodies with some independent power, the fundamental issue is political rather than distributive justice, and that is true in three respects:

1. The fundamental normative issue addressed in the argument concerns the problematic relationship of power that global political and socio-economic dynamics may produce, rather than its distributive impact.
2. To the degree that the paper eventually supports the development of supranational institutions with some autonomous forces, the reason for global institutional construction is political rather than distributive.
3. According to (II) above, the form of organization advocated shall have political competences such as limiting the power of certain global actors, rather than distributing global resources.

Part four concludes by pointing out that attention should be paid to the positive aspect of sovereignty; that positive sovereignty can be hindered by both global and internal factors; and that the establishment of more strong and autonomous global regulatory bodies may be appropriate to tackle these challenges.

### **Problem of Sovereignty: Ancient and Contemporary Philosophical Perspective**

In both theory and practice the idea of sovereignty raises difficult problems. Such questions are aptly demonstrated in Plato's theory of politics. In Book VI of the Republic, and after discussing and resolving numerous issues concerning the just state, Socrates, the lead interlocutor in the Republic and in most of Plato's dialogues, broaches a discussion of 'the most important subject,' namely the nature of goodness and the knowledge of it by the guardians as a necessary condition for the constitution of the just state. Throughout Plato's epistemology, true knowledge is knowledge of forms, and the form of the good is the highest form in the hierarchy of forms. The origin of the good is the source of all that exists, of the life or being; and it is the source of our understanding of all that we know. According to Plato, a worthy philosopher, one fit to rule in his ideal state, is a philosopher whose intellect and character make him or her capable of an 'erotic' love of knowledge, culminating in a ratiocinate apprehension of the 'shape of good.' This apprehension of the form of the good does not yield complete knowledge of the good itself. Rather it yields 'the concept of the good,' which Plato often terms 'the offspring of the good.' The notion of the good is 'the hypothetical first premise of all' and in Plato's political philosophy it acts as the point of departure for the creation of the just state by the philosopher king. Plato makes it very clear that the concept of the good is not in itself the nature of the good, but he also says that it is the one that is most like the good. The problem with the concept of sovereignty is evident from the mixed messages that Plato sends out while explaining the nature of the good, the meaning of the good and the relationship between them.

Plato says of the good form that it is the most important subject, the father of the good idea, that which gives the known things the truth, and the power to know the knower, and the sovereign of the intelligible world. As for the idea of the good, he says that it is 'the offspring of the good, that which is most like the good, and the concept by which we come to know the usefulness and value of all; again he says that the knowledge of the idea of the good is the

knowledge which the guardians, or philosopher rulers, must possess in order to build the just state. Such comments suggest the concept of the good shares in the 'sovereignty' of the form of the good, without explicitly saying it. Nevertheless, at the same time, Plato makes several comments that seem intended to cast serious doubt on both the possibility that the nature of the good can be understood at all and the suggestion that the idea of the good, and hence the state, share in the sovereignty of the good. Yes, it is as if Plato wants to suggest that both the concept of the good and the state on which it is founded are sovereign, and that neither the idea of the good nor the just state is sovereign. Immediately after addressing the issue of 'the most important thing,' i.e. the nature of the good, Plato states, we don't have sufficient knowledge of it and that we don't know it, even the fullest knowledge of other things is of no benefit to us, no more than if we gain any possession without the value of it.' He also says he can't give an account of the type of the good and he wants to abandon the search for it for now because it's too big a subject.

Plato tries to clarify the notion of the good as compensation, that is, the offspring of the good. This is indeed little consolation, however, since Socrates believes that knowledge of other things is meaningless without understanding the nature of the good. Oddly enough, Glaucon would happily accept the offer. It is as if the fervour of his belief about the intelligibility of the form of the good blinds him entirely to the shabbiness of Socrates' bid, and he lets Socrates off the hook in return for the pure promise of an indeterminate future occasion to give account of the form of the good:

The father's story remains a debt you're going to pay another day. However, when Socrates finishes the debate in Book X of *The Republic* without making good on his promise, Glaucon doesn't dispute the contract violation. To make matters worse, Socrates casts doubt on the worth of any attempt he could make to give an account of the idea of the good:

*"I wish I could pay the debt in full, and instead of just the interest you receive it. So here, then, is this child and progeny of the healthy. But be careful that I don't knowingly mislead you anyhow by sending you an illegitimate child account."*

Here, Socrates contradicts his earlier lofty assertion that the principle of good, which serves as the basis for the constitution of the just state, wields its 'father's' authority, the form of goodness. What is the reader of Plato to make of the dramatic decline in the scale of Socrates' conversation subject matter? Initially he suggests addressing 'the most important subject,' but he changes the subject quickly to his inability to explain the nature of the positive. He then sinks down even more with his note that the consolation he gives may not be reliable. Is this a classic case of bathos, or does Plato use indirectness to convey a message which he would rather not explicitly state? This latter choice is more likely given the very pregnant analogies that Socrates uses to make his fundamentally questionable claims and apologies.

Plato preferred to tacitly express his message concerning the supremacy of the just state, because it would directly negate the very useful, if illusory, idea of sovereignty. More precisely, Plato, who claimed that only the most rational people could and should know the truth, chose to state the matter indirectly and in a way that would only speak to readers who rely heavily on reason to gather their clues. Through its incomplete analogies, the message Plato conveys is incompatible with his initial suggestion that the idea of the good originates from and thus shares in the supremacy of the nature of the good, for this message tells the reader that the idea of the good has an earthly, as opposed to a celestial, emanation and authority. The concept of the good has its roots in human reason, and it derives its legitimacy from human reason. Furthermore, the

intent of the concept of the good underlines its earthly and restricted existence, since, as the unhypothetical first principle from which we can derive knowledge of the utility and value of everything to us, this theory merely serves to remind this earthly, human life and not to provide absolute knowledge or absolute truth.

In the elitist view of Plato, this idea is not suitable for all, and that is why each of his analogies lacks a central equivalent. Omitting these analogs makes less logical readers, such as Glaucon, less able to distinguish the true origin and essence of the idea of the good and therefore more vulnerable to the assumption that the idea of the good, and hence of the state, is sovereign in the sense that it derives from a natural and absolute authority, namely the good itself. That, according to Plato, is the most acceptable conviction for the majority of citizens on the authority of the state. On the other hand, the elite guardians may be allowed to know that the state is not sovereign since this knowledge gives them a freedom that, Plato felt, was necessary for effective governance. As Plato's analogies indicate until their missing analogs are given, governing –or creating, preserving, and implementing a constitution within a state–is also an inherently creative process, though a rational process, and as such requires the freedom to create –or to legislate. Governing, however, is also a matter of maintaining order, which needs, or at least is made much easier by, a general, if illusory; belief in the sovereignty of the State. To Plato, the conflict between these two demands raises the very difficult question of sovereignty.

Louis Henkin provides his own formulation of the question of sovereignty in his article, *The 'S': Word: Sovereignty, and Globalization, and Human Rights, et cetera*. In comparison to Plato, he articulates the issue by trumpeting his disdain for it, in a significant part. His essay's title alone conveys his disgust but he doesn't stop there. He immediately lets fly to sovereignty after outlining the points he wants to discuss by saying, *'I don't like the 'S word.' His birth is illegitimate, and he hasn't aged well.'* In important ways, Henkin's arguments are close to those in Plato's discussion of the concept of the good and its relation to state sovereignty.

Henkin does not seem to want to suggest that a father who subsequently fled the scene will explain the question of sovereignty, or any part thereof, by using the example of a child sired out of wedlock. Rather, his comparison seems intended to imply something more like the warning that Socrates included in his disclaimer about his account of the idea of the good, 'But be careful that I don't inadvertently mislead you by giving you an illegitimate account of the boy.' In other words, his argument that sovereignty is unconstitutional implies an assault on the authority of the conventional and contemporary account, or a clarification of our conception of the sovereign State.

Their most striking feature is that while both could have been done logically by focusing on the idea of sovereignty and imaginative revision of its material, each transformation resulted instead from our reaction to the horrors of two world wars and the atrocities perpetrated by Hitler's Germany. Henkin once again suggests that the wars and their massacres were premised on and made possible by an illusory conception of state sovereignty. Therefore, the fact that disasters caused these changes gives weight to Henkin's concerns about the current state of international law and its capacity to protect human rights. This finding indicates that there are actually opportunities to prevent future injustices and tragedies at the mere expense of reflecting on and revising our definition of sovereignty coupled with the resulting changes in the adherence of states to international law and human rights.

Another characteristic of these transformations is that they were very small and interruptive. The most influential countries in the world, and hence those that one would expect

to lead in improving international law and protecting human rights, were disappointingly slow and reluctant to commit to international regulation given the overwhelming evidence that such regulation is required. Of these changes, Henkin says that although they represented 'a big rent in the cloak for sovereignty,' the flag of sovereignty still waves ominously over all human rights issues; [and] the slogan of sovereignty is still rooted against human rights.' Amid the horrors of war and the worst possible atrocities, the principle of sovereignty maintained its fundamental dignity even at the detriment of resolving the urgent need for new ways to protect human rights. Henkin summarizes these changes in the formulas 'Sovereignty means' let's leave one another alone—no fighting, no use of force' and 'we will participate in limited cooperation [...] if we, as sovereign states, agree [to do so].' Henkin says that at the end of the twentieth century this was the status quo and that the outlook for the future was bleak until new developments further eroded the idea of sovereignty of the states.

The new developments addressed by Henkin are globalization, the international market, cyberspace and environmental concern. Such innovations threaten the authority of nations, because they seem to operate together beyond the sovereign control of any or all of them. In other words, these phenomena tend to be sovereign themselves, and their authority threatens the sovereignty of States. Nevertheless, rather than being pleased with this challenge to the supremacy of states as one might expect him to be, Henkin expresses concern about it.

So, if the movement for human rights has opposed state sovereignty and globalization has begun to challenge state sovereignty that may sound promising to the movement for human rights. But in the different forms of globalization, I don't find comfort for human rights. The truth is that human rights and the movement for human rights rely on governments and the State system.

Henkin says that those concerned with human rights will 'work to make the state system more human-rights oriented' after mentioning that he does not foresee the state system being obsolete any time soon. Specifically, he says states have an obligation to protect human rights against all abuses including those that could be caused by the new global trend. In addition, he says sovereign states have the ability and duty to bring global powers under their influence in the interests of human rights. This is especially true in the case of what Henkin terms 'the question of external intervention,' referring to the growing conviction that certain intra-state issues—such as genocide, ethnic cleansing, and other massacres—need an international community response to protect human rights.

Henkin sums up his assessment of the contemporary question of sovereignty in light of these global phenomena:

*“So, we got a problem. If [state] hegemony has imploded sufficiently to make the human community feel responsible for what is happening within territories, then we need to find ways of dealing with problems that occur in other nations, ways that are legally, morally and politically appropriate.”*

The crux of this summary is the phrase 'imploded sufficiently.' Like Plato, Henkin sees the sovereignty of states as a potentially very useful means of maintaining order in the world, insofar as each state could use its sovereignty to promote human rights at home and around the world, but he also sees the sovereignty of states as an obstacle to the kind of cooperation between nations that would be gaining ground. It, according to Henkin, is the contemporary issue of sovereignty. Henkin's solution to this topic is to press for further implosion and the ultimate collapse of the supremacy of States. He says these global trends lead him to 'reopen a quixotic

campaign to try to decompose the idea of sovereignty' and 'will stop using the word' and use it' only to avoid using it.' Thus, unlike Plato, Henkin is willing, and even eager, to do away with sovereignty in order to clear the way for a creative response to what he sees as very pressing human rights threats.

In the light of the considerations discussed above, the assumption that Henkin's attempt to address the flawed concept of sovereignty leads only to another flawed concept of sovereignty is difficult to ignore. His initiative, however, is in no way a failed one. On the one side, Henkin tries to push the definition in a promising new direction by highlighting the need for a principle of autonomy of states that is consistent with international cooperation to protect human rights. On the other hand, he is not entirely responsible for his efforts' failures, because the constraints inherent in Henkin's conventional and contemporary concepts of sovereignty predicted his limited success.

### **Negative and Positive Sovereignty**

In this section, I unpack how to contribute to our understanding of state sovereignty through the distinction between the negative and the positive aspects of freedom. By doing so, I will draw on the quasi-state function of Robert Jackson (Jackson, 1993).

Jackson describes negative sovereignty as a "*formal-legal condition*" indicating the immunity enjoyed by a sovereign state from external interference. Negative sovereignty is the core principle of contemporary international law, arguably; it is "*the legal basis on which a system of distinct and formally equal states practically rests.*" The rights / immunities bestowed on a state by negative sovereignty relate to the non-intervention duties bear by other States. Negative sovereignty, like individual negative freedom, can be helpfully defined as a "*freedom from*" and an "*external*" kind of independence: a state is negative sovereign when it enjoys immunity from external intervention, whether or not it is capable and has the necessary resources to use such immunity for self-assigned purposes.

It is the process of decolonization itself, argues Jackson, that has made the notion of negative sovereignty so important, thus turning sovereign statehood into a term that is universal rather than empirical—that is, into a right that every person has, rather than a status to be gained on the ground by demonstrating one's capacity for self-governance. Such processes of decolonization that resulted from a successful rebellion against the imperial West certainly suggest a high degree of substantive control as already achieved. Nevertheless, several colonies (especially, but not exclusively, in Sub-Saharan Africa) could not reasonably claim to possess the empirical quality of positive sovereignty; hence the argument for the end of their colonial oppression could not be cantered on this. Therefore, the status of a sovereign state came to be regarded as a right of non-interference that each citizen has on the basis of an underlying right to self-determination, rather than a precondition for political independence. Understanding the underlying reasons for this shift in expectations and values goes beyond the reach of this article; what counts here is that the exclusive emphasis on negative sovereignty is a relatively recent phenomenon arising from a very specific historical conjuncture.

"*The New Game of Sovereignty*," Jackson claims that a very specific set of international political actors has emerged: quasi-states marked by negative, but not positive, sovereignty. Quasi-states generally overlap with, but are not coextensive with, developing countries; as has already been stated, some former colonies have indeed proved their positive sovereignty in their

very struggle for independence, while several others have succeeded in gaining it afterwards, thanks to internal efforts and/or foreign conjunctures. In the new game of sovereignty, quasi-states are accepted as equal but their lack of positive sovereignty prohibits them from taking advantage of their legitimate statehood (Ronzoni, 2012).

### **Protecting Positive Sovereignty in a Globalized World**

Having explored the concepts of negative and positive sovereignty in some depth, it is now time to ask whether the concept of positive sovereignty can be useful in understanding which problems the current international setting poses with global political justice and which new institutional approaches, if any, could effectively solve them. I will answer that question in a positive manner; my statement will proceed in two steps.

Firstly, I would suggest that the most optimistic perspective to hold about the comparison between negative and positive freedom is a mixed view, no balance.

Second, I would suggest that a revised and updated focus on positive sovereignty may highlight what is problematic about the current global order—namely the fact that it poses broad structural barriers to (some) states' positive sovereignty. If this is the case, it can be seen as a way of supplementing supranational regulatory institutions; rather than replacing, state sovereignty.

### **Freedom: Defending a Mixed View**

Isaiah Berlin famously argued in "*Two Concepts of Liberty*" that the idea of freedom as an internally facilitating condition could imply that one's objective will and goals—shaped as they are by social and environmental factors—are not inherently one's "*real*" will and goals. Therefore, in the name of positive liberty, authoritarian policies can be justified in order to "force people to be free." Nevertheless, most scholars nowadays accept that "*Two Concepts*" must not be read entirely as a full-blown denial of positive freedom, or as an unqualified defence of negative freedom. Berlin herself later clarified that monism was his intended target in "*Two Definitions*," not progressive liberty as such (Berlin, 2014); his concern was directed at the account of positive freedom which left no room for any other political values. His historically contextualized concern was how totalitarian regimes in the first half of the 20<sup>th</sup> century had exploited the rhetoric of positive freedom to reject both negative freedom and, indeed, the true essence of positive sovereignty. Berlin went so far as to confess his disappointment that he had not addressed how negative freedom itself could be used to justify great evils, such as inequality under laissez-faire capitalism, if it was deemed the only worthy political interest.

Nonetheless, much of contemporary liberal philosophy recognizes, either explicitly or implicitly, that a certain degree of both positive and negative freedom must form part of a proper account of freedom (Nozick, 1974; Taylor, 1991), and that this is not actually as risky as some of the remarks made in Berlin seem to indicate (Christman, 1991; Pettit, 1997). The consensus becomes almost overwhelming if we shift the focus from liberal ideology to the actual structure of liberal societies. Virtually all liberal societies are distinguished by a set of structures and policies aimed at promoting different variations on a mixed paradigm of democracy and its degrees. Even in the most laissez-faire cultures, organizations and regulations understand the need for people to be able to take advantage of one's negative freedom successfully—on these grounds several welfare policies are justified. Distinctions between formal and functional expression, at the academic level (Swift, 2019), and the promotion of 'real freedom' through a

universal basic income, for example (Van-Parijs, 1995), suggest that immunity from interference is not enough for most liberals. Admittedly, these policies and proposals can be interpreted as attempts to provide a richer interpretation of negative freedom itself, by relying on a more plausible and wider account of what count as “constraints.” However, some policies are more un-controversially inspired by ideas of self-mastery and positive freedom proper. For instance, although the idea of one’s “true self” is dealt with caution in liberal milieus, the idea that each of us needs to “become” the kind of agent who can make effective use of one’s negative freedom to pursue self-assigned ends underlies many of the most widely shared policies among liberal-democracies, such as the compulsory education of children and/or teenager up to a certain age and the rehabilitation of criminal convicts. In sum, the idea that negative freedom alone is as problematic as an exclusive reliance on positive freedom seems to be the object of an underlying (if implicit and vague in its precise contours) consensus at least in the actual institutional structure of liberal societies and in their public discourses – although, as mentioned earlier, Within intellectual debates through strictly negative and positive libertarian positions exist. There is, it should be noted, nothing even remotely similar to a consensus on how specifically freedom should be defined, understood, and thus encouraged. But few would argue that some crucial aspects of what Berlin called true independence and self-mastery of sovereignty—even if the words as such are not recognized—must in some way guide our definition of liberty. Negative freedom without paying any attention to self-mastery, preferential processes and the successful ability to act on one’s formal freedom is not just an empty term, but one that can be used to justify unacceptable forms of exploitation and false consciousness. Berlin, as a fervent advocate of pluralism, would probably agree.

### **Global Background Conditions and Positive Sovereignty: Addressing Global Political Injustice**

In this paragraph, which completes my point, the argument I would bring forward is that the global order may be morally unfair in that it poses unjustifiable structural barriers to positive sovereignty (Smith, 2014). As noted in any initial clarification, this is a form of political—rather than distributive—injustice: making the access of a state to positive sovereignty unjustifiably difficult means making the access of its people to self-determination—to deciding their own political destiny—equally difficult. Of course, one way that the global order could do so, as Thomas Pogge stressed most notably (Pogge, 2005), it is by creating and perpetuating extreme poverty; but my emphasis here, to the degree that poverty could be one manner in which constructive sovereignty is hampered, is on how quasi-state exercises their right to exercise sovereignty and self-determination as political goods.

When explaining the role of quasi-states when international society, Jackson discusses how state-building is a highly complex process that occurs over an extended period of time, mainly in the home (Risse, 2005). Negative sovereignty can be bestowed solely by one act of law or diplomacy on a state; alternatively, positive sovereignty cannot be imposed on other actors. It is the result of a long and complex process and the execution of it is the responsibility of each state itself—although several types of international development assistance can be viewed as attempts to help quasi-states achieve positive sovereignty. This presumption I don’t want to question. I accept that if we are to take self-determination seriously, each country must be held accountable for achieving effective sovereignty, and that this can only be a dynamic institutional

domestic mechanism. -country should, however, enjoy relatively favourable conditions for initiating and implementing such a process; in other words, global conditions should not undermine states' ability to achieve or maintain positive sovereignty. As I have argued elsewhere (Ronzoni, 2009; Orru & Ronzoni, 2011; Laborde & Ronzoni, 2016), this could be precisely the problem of the current global order: its structural role in hindering the effective exercise of domestic sovereignty. It happens both (1) through the implementation of international rules and standards, and (2) through the absence of international rules and standards when appropriate.

The optimistic type is reflected in current globalized institutions' laws. Some of these are skewed in such a way that quasi-state capacity to build their way out of bad, constructive sovereignty is unduly limited. That could be explained by two cases. Firstly, types of institutional assistance and foreign aid are very often conditional on borrowing countries opening their markets to lending (often to the detriment of more sustainable domestic economic development) or adopting strict and fit-for-all' recipes for growth,' usually characterized by a simple neoliberal agenda of controlled inflation, discretionary spending restraint, and broader growth (Woods, 2010). Scholars have questioned whether this is truly the best route for fragile countries to find their way out of poverty and poor institutional functioning (Joseph, 2006); but from the perspective of positive sovereignty, what is equally, if not even more significant, is that these solutions prevent states from experimenting with institutions and policies (Rodrik, 2011). Such a trial and error process is both a means toward constructive autonomy, and an expression of it. On the one hand, the right to experiment with institutions and policies is viewed by many as the most successful way to gain information about what works best in a particular national context, in order to achieve effective control over a region and the potential these provide for public goods that are the hallmark of positive sovereignty. On the other hand, true sovereignty itself consists of the very ability to address problems of domestic stability and justice with an appropriate degree of autonomy, choice, and versatility—to allocate ends to one and pursue them by means freely chosen and revisable.

A second example is the presence of a global trade system that causes the trade tariffs to intensify. Escalating tariffs are a specific type of tariffs that a nation can place on imported goods; what characterizes them is that the tariff burden increases slowly as we switch from unprocessed raw materials to manufactured products that are high in technology. Trade tariffs are designed to defend one's own competitive domestic market. Quasi-states are more likely to fall into the trap of tariff escalation. A dynamic, internally segregated economy is a standard measure of positive sovereignty and an achievement, and it is exactly what quasi-states lack. A system of rising tariffs strongly encourages resource-rich quasi-states to organize their economy around the production of one or more raw materials to achieve immediate gains. When this happens, the economy of a nation is highly vulnerable to economic crises and shocks, highly dependent on trade and export patterns, and significantly impaired in its capacity to build a dynamic, stable and domestic economy that is internally diversified.

The second way in which the current global order could create systemic obstacles to positive sovereignty is the lack of regulation of some of its most important political and socio-economic dynamics. As discussed at the beginning of this essay, the fact that several Trans and international factors undermine the state's problem-solving ability in domestic matters is one of the most pressing problems that international politics must face. In other words: issue types of influence are exerted across boundaries, in the absence of any effective institutional means of linking and regulating these. That's happening both globally and transnationally. Internationally,

powerful states are often capable of deeply influencing their own interests in the domestic policies of weaker ones, thereby severely limiting their constructive sovereignties. Transnationally, several forms of influential non-state actors are able to act in a global region in ways that support their own gain and seriously weaken states' ability to resist them.

According to some, not only quasi-states are increasingly affected by the challenges to positive governance caused by the lack of transparency of influential non-state actors, but also—at least to some extent—wealthy and established ones. For example, the domestic welfare states suffer from the pressure of various forms of international tax competition (Avi-Yonah, 2019). On the other hand, the strategic decisions of transnational corporations, which can transfer their company elsewhere without much notice and repercussions, are rapidly dismantling existing labour rights protection systems. Transnational corporations may transfer their production more or less openly where it is best suited to them, pushing even wealthy democratic countries to abolish existing systems of progressive taxation, labour rights, and market control, so as not to lose jobs and resources. The extent to which this is occurring is problematic, and European welfare states are far from being and are unlikely to become quasi-states; but if positive sovereignty is a matter of degree, then their positive sovereignty has not remained free from the increased public influence of non-state actors, and still largely exempt from accountability.

All positive and negative barriers to positive sovereignty point in the same direction, broadly speaking: global institutional architecture, aimed at accounting for global negative externalities through global institutional regulation, to free states from some of the most significant challenges to their positive sovereignty; We need 1) better rules (different rules to govern trade, international aid, and other areas such as intellectual property law, for example); and 2) more rules to control global conditions where there is a lack of accountability (for example, restricting or banning unfair taxes and labour competition). Yet this is not a cosmopolitan full-blown statement. The domestic analogy is flawed. The correct supranational regulatory structures are those that give them back successful problem-solving capacities by increasing restrictions on all countries. For example, if binding global rules were to be enforced against unfair tax competition, then countries would lose the freedom to deviate from such rules, but would regain the power to design and implement fiscal policies at their discretion within the constraints of those rules. To achieve positive sovereignty, states must lose part—but not all—of their negative sovereignty. Therefore, if it is true that the positive sovereignty of affluent and developed democracies can also be eroded under current global conditions, an emphasis on positive sovereignty-fostering global institutional architecture has an additional strategic advantage that lacks more conventional arguments for global justice. For example, in some places both strong states and quasi-states might have a common interest in binding the influence of transnational corporations and other non-state actors by means of global rules regulating tax breaks and working conditions (Rodrik, 2000).

What structural global challenges to effective governance are the most serious ones that could be overcome by concrete institutional approaches is a challenge for another day—and, crucially, a dynamic interdisciplinary undertaking. Nonetheless, I hope the argument put forward in this paper has provided a clear initial understanding of what our overall agenda should be.

## CONCLUSION

The core of the so far pursued discussion of state sovereignty relies on the fact that it applies to the State's supreme power or authority and that the State is subject only to international law and not to the national law of another sovereign State. On the other hand, equality of states is of a legal nature which applies to rights and responsibilities and not to the actual power at the hands of the States. Both principles are posing both functional and philosophical phenomena, operating independently or together under the phrase—sovereign equality of states. Some of these anomalies are natural, and state sovereignty is a valid and realistic concept, while others are aberrations.

The belief that the state's problem-solving potential is under pressure in our present world is extremely widespread. What we need, argues others, are global (political) solutions to (political) global problems.

In this paper, I argued that more attention should be paid to the positive aspects of sovereignty; that global structural as well as internal factors may impede positive sovereignty; and that the creation of more effective and autonomous global regulatory bodies may be necessary to address these.

I shall end by pointing out one critical way in which this statement should be eligible. One can exercise constructive power for evil ends. While positive sovereignty allows us to look inside states and pay attention to both subjects and sovereigns, states can be positively sovereign yet oppressive, undemocratic, and profoundly unjust (the Third Reich was by all means a positively sovereign State). Some may therefore raise the question that I'm not paying enough attention to the whole range of ways that positively sovereign states can hurt their own people and commit domestic injustices. This is only true to some degree. Admittedly, a focus on positive sovereignty provides for the possibility for politicians to make genuinely different choices, responding to context-sensitive needs, but also to various democratic outcomes and, indeed, views on justice. Nevertheless, the question of defining the boundaries of state sovereignty persists for those who support positive sovereignty and those who prefer a purely negative statehood account. My argument is not that when states are able to be fully sovereign they should not be bound and regulated in any way. Favouring effective sovereignty does not mean restricting sovereignty by, for example, international human rights regimes and international criminal law.

Nevertheless, even within those constraints, positively sovereign states can and will certainly take different paths (that's the whole point!) and these paths will be different if examined, for example, through the lenses of particular principles of distributive justice. It could well be that this is where distributive and political justice fall apart. If we believe in the good of political justice and believe that transparent, not too distant structures are needed to achieve it, then we have to bite an essential bullet: there can be no political justice without true control, even if this means a less than ideal performance in terms of distributive justice according to one's favourite theory.

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