

Liquid sovereignty in the post-modern world order

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Paper prepared for the Sixth Pan-European Conference

Standing Group on International Relations

Torino, September 12-15, 2007

The studies sovereignty have become popular again. Many scholars, schools and trends in the IR discuss nature of sovereignty, and changes in understanding of this phenomenon. The concept of sovereignty is nothing new, but its meaning is undergoing changes nowadays. Belief in solid sovereignty, basic in the Westphalian¹ system, becomes unpopular, particularly in “postmodern” states area. So that, ideas of “shared sovereignty” or the postmodern sovereignty are emerging, whereas loyalties to nations states and national patriotism are disappeared, for example in the European Union.

Changes mentioned above are the result of searching a new role for the state in the post-modern world order. Moreover, new actors like the EU or big transnational corporations are claiming the new forms of authority, and then sovereignty. As John Agnew points out “effective sovereignty is not necessarily predicated on and defined by the strict and fixed territorial boundaries of individual states”². According to many authors, after the Cold War, question of the hierarchy of the states is more important than sovereignty³.

This paper develops the concept of liquid sovereignty to argue that any particular state participates in “sovereignty flows”. It begins with a review of contemporary concepts of sovereignty, with emphasis given to the role of the post-modernity in these concepts. In this part I try to explain what the “post-modern” world order means in the light of ongoing discourse. The second section proposes idea of liquid sovereignty by identifying key characteristics of that idea. The third section examines the question of how to understand flows mentioned above, and which factors determinate the “shape” of the liquid sovereignty. Finally, a brief conclusion relates the future of sovereignty and the Westphalian system.

Postmodernism, in the IR, poses the question – what given universal mode of international subjectivity to modern state? In this way postmodernism violates the IR language, negates or undermines sense of established notions as state or loyalty, makes turmoil of views and meanings. Analysis of three elements constituting national state: authority, territory and nation, shows that the idea of postmodernism, enthusiastically put into practice by non-state actors, is taking us away from the Westphalian type of order. Authority – in the opinion of postmodernists – is oppressive, so unnecessary and harmful. Territory is only a part of human identity, which could be changed by other circumstances. Nation is a construct more imagined than real. Twilight of an era of national state caused that the balance

¹ Some authors propose to use the term Vattelian sovereignty instead of the Westphalian sovereignty, because doctrine of non-intervention was articulated explicitly by Emmerich de Vattel in 1758

² J. Agnew, *Sovereignty Regimes: Territoriality and State Authority in Contemporary World Politics*, “Annals of the Association of American Geographers”, vol. 95, no. 2, 2005, p. 438.

³ For example D. A. Lake, *The New Sovereignty in International Relations*, “International Studies Review”, 2003, 5, pp. 303-323; J. Agnew, *Sovereignty Regimes...*, p. 440.

between nation and the state is unsettled on the level of regions. Postmodern states give more autonomy to supranational bodies (as the European Union⁴) and new communities are emerging, against to the state, against its territory, against its authority. These new actors are locating themselves in the same space where power of the state “falls”, slipping away from hands of the state. At the same time the state is “at bay”, because larger communities want to absorb it. This complex situation caused that sovereignty, as a distinctive for the state, is not so obvious or robust. We are witnessing de-territorialization of sovereignty.

The classical approach to sovereignty, assumes that sovereignty is distinctive feature of states. Territory, population and control are fundamental for the sovereign state system. Stephen Krasner adds mutual recognition and autonomy. All these elements are part of world system of states, according to Hans Morgenthau – ineffective. Apart from many understandings and meanings of sovereignty, in this paper I try to turn direction to power and state’s ability to control movement across borders and inside the state. Nowadays states cannot control transborder movements of people, goods, capital, and what is more important threats. Borders are too porous for the state, and too open for other actors. In fact, states are “at bay” by non-state actors and facing globalization, which cannot be under control. Of course right to have a border is not negated, but for example in the European Union, right to control these borders is ceded on the supranational body and special agency called Frontex. It is necessary to emphasize that legal sovereignty is not de facto control. We can perceive sovereignty as Janice Thompson proposes as “state authority” i.e. exclusive right for rule making⁵, and then question of degree is irrelevant. Using that approach sovereignty is not eroded and cannot be measured. In this light “full sovereignty” or “a little sovereignty” are incorrect words. Legally, the sovereignty of state is undivided, absolute and full. State, and government, can freely act in international system thanks to sovereignty i.e. recognition of the state. But control is more complicated, blurred and it is a question of degree, as Joseph Nye aptly points out⁶. Even in the Westphalian era states rarely had full control over everything that happened on their territory, but the degree of that control was rather high. From early 1970’s growing interdependence has caused that states have not full control, but it does not mean that they are not sovereign in the legal sense. Sovereignty is an attribute of the state. This point is not new and is obvious, but we should refer it to the Westphalian era. In post-

⁴ B. Miller, When and How Regions Become Peaceful: Potential Theoretical Pathways to Peace, “International Studies Review” vol. 7, 2005, s. 233.

⁵ J. Thomson, State Sovereignty in International Relations: Bridging the Gap between Theory and Empirical Research, “International Studies Quarterly”, vol.39, no.2, June 1995, pp. 213-233.

⁶ J. Nye, Understanding International Conflicts, New York 1993, p. 134.

modern era sovereignty, even legal, flows from the states to other units. It is nothing new, because, as Waltz points out “states are not and never have been the only international actors”⁷, but structure of the international system is defined in the terms of states. This situation is possible, because nowadays the states are primary units of that system. But it seems to be over and structure of the world system (not international) is undergoing changes.

This phenomenon can be called “erosion” of sovereignty, this is idea of Kenneth Waltz. But, instead of “erosion”, I propose to call it “liquefaction” of sovereignty, because even sovereignty (i.e. control) is taken away from the hands of state it does not mean that sovereignty disappears. Colorful metaphor of erosion (state is depicted like a stone) is not valid. In fact sovereignty is not lost, it is transferred from one entity to another. Authority, the most important element in sovereignty concept, starts to outflow from state.

Post-modern world order caused a lot of changes in the sovereignty. From solid shape (when particular sovereignty is “attached” to particular state) to more liquid, when at the same territory and level of activity different actors act, which are more or less interdependent. Paradoxically, the pre-modern area and the post-modern area of the world are very similar. Both in Africa and in Europe, other actors, in some degree attached to specific territory, function aside from the state. Sovereignty flows from the state, on the one side to regions, the EU, big business, and on the other side tribal forces and trans-border groups.

Liquid sovereignty – this expression fits best to the political sovereignty today. The metaphor of fluid is used because, fluids are bodies which cannot keep form by themselves. Even trivial external factor changes their shape. Liquid sovereignty means that on the one hand power flows between particular actors of world politics, but on the other it’s hard to seize it. Of course, this remark is correct for the system of the North states – in other regions sovereignty, more or less, congeals. However, because of long-lasting factors and changes in international environment, sovereignty becomes liquid, and any attempts to make it solid are interpreted as aspirations to rebuild national state. In contrast sovereignty is also liquid in failed states – there is no anarchy (no power), but sovereignty flows so fast, that scholars cannot recognize its characteristics.

Examining the category of the liquid sovereignty we should answer at least four questions. First, and probably most important, is why sovereignty flows and in what circumstances? Second, what are the directions of these flows, and can we measure these flows? Finally, how to assess this phenomenon.

⁷ K. Waltz, *Theory of International Politics*, Reading 1979, p. 91.

The category of “flow” is important because it shows that sovereignty is not solid. It can flow from one state to another – as a result of war, it can flow from the state to a non-state actor – as a result of growing interdependence. So, why does sovereignty flow? The answer is very simple – because it can. Because it is liquid. Because, when state’s borders are too porous it can flow to another entity. So, the total sovereignty (a sum of all power) is constant. But the question is in which hands the specific amount of sovereignty is, the state’s, the nation’s or the supranational body’s for example. History of sovereignty shows that sovereignty is authority within specific territory, bounded by borders. This is classic, *territorial* view of sovereignty, and *modern* as Daniel Philpott notes⁸. History shows very clearly, that polities shouldn’t be organized territorially⁹. But sovereignty is divided, as pointed above, and can be absolute and non-absolute. Since, it can flow from state to other actors, for example in economic area. It means that absolute, Westphalian type of sovereignty is obsolete. Sovereignty flows all the time, but the difference between modern and post-modern era is in the speed of this flow. In 1800’s and 1900’s sovereignty was flowing rather dramatically, as a result of war, from one state to another. In these centuries the moment of sovereignty’s transition was clearly visible and definable. But growing globalization caused, that sovereignty flows slower, but all the time. We cannot point out “that moment”, but we can observe sovereignty as a process of change. Circumstances, in which sovereignty is to start flowing, are also different and depend on the specific moment.

It is not possible to reach a definitive conclusion about the circumstances that caused the outflow of the sovereignty. However, at least six factors affect that process: growing globalization (the increase in flow of goods, capital, and people), growing importance of supranational bodies (like the EU or NAFTA, for example), growing importance of sub-national bodies¹⁰, growing importance of the non-state actors (both organizations and corporations), impact of ideas which promote other entities than the state (Communitarianism for example).

Trying to answer the second question mentioned earlier, we can distinguish two directions of sovereignty flows, vertical and horizontal and three types of flow: simple, complex and chaotic. Vertical flow demonstrates the issue of hierarchy in international relations, some entities stand higher (or lower) in rank, but they are sovereign too. Vertical

⁸ D. Philpott, *Sovereignty: An Introduction and Brief History*, “Journal of International Affairs”, Winter 1995, vol. 48, no. 2, pp. 356-357.

⁹ H. Spruyt, *The sovereign state and its competitors: An analysis of systems change*, Princeton 1994, p. 34.

¹⁰ For example almost all US states have their „embassies” abroad. European regions, like the Rhone-Alp Euroregion, have their mission in Torino and Geneve.

flow of sovereignty can be illustrated by examples of European countries, where these flows can be clearly described. First type of vertical flow is of course outflow to supra-national entity, the EU. The European Union is the best example of an institutional body that has invalidated conventional sovereignty rules, and the best example of flow of legal sovereignty. For instance, the European Court of Justice has direct impact on the legal systems of the member states. Thus, the member states of the EU are not juridically independent, even though this loss of independence is the result of freely chosen commitments, as Stephen Krasner points out¹¹. The EU gained power from the states in some issues, for example trade policy, where states have to accept the EU decision, because of qualified majority voting. Another way, in which sovereignty outflow from the state is giving more autonomy to the regions, encouraged in fact by the EU. However the EU decision making system is a very interesting example of sovereignty flows. First, sovereignty flows from the states to the Commission, which is executive branch of the EU. Then the EU Council, by the committology mechanism takes care of executing activities. At this stage sovereignty flows from Commission to the member states, because committee's members are representatives of their own countries. We can call this situation "sovereignty circulation" – part of the sovereignty outflows from the state, and then comes back, but indirectly.

The opposite type of vertical flow of sovereignty is outflow below the state. Catalonia is the best example of flowing sovereignty from the state to subnational entity. Changed circumstances, partly caused by globalization, lead to the emergence of new claims to sovereignty of subnational bodies like regions or provinces.

Second type of flow, horizontal, concerns flows between states, which are (at least theoretically) at the same level. This type of flow is typical to modern era, but in the post-modern world flows are horizontal and vertical in the same moment. Outflow of sovereignty from the state to supra-national body first seems to be vertical (between entities with different ranks, from higher to lower), then clearly horizontal (actors are on the same level), and finally vertical again (from lower to higher).

As mentioned above, the three types of flow, simple, complex and chaotic, can be distinguished. How to assess which flow is simple, and which is not. Key determinants in this category are time and quantity of sovereignty prerogatives. When time is short, and quantity of sovereignty prerogatives is small we can call it a simple, or even a reduced flow. When time is short, and amount of "power" is on the high level, we call it a simple flow. The best

¹¹ S. Krasner, *The Hole in the Whole: Sovereignty, Shared Sovereignty, and International Law* <http://students.law.umich.edu/mjil/25.4/Krasner.pdf> (1.05.2007)

example is territory cession or peace agreement. Long time and amount of “authority” on the high level are characteristic for complex flow, which is exemplified by process of European integration. Processes of complex flow take place also on Russia-PRC border.

Chaotic (or turbulent) flow is characterized by short time, and amount of “authority” on the high level. Chaotic flow can be observed during the war or external intervention. When the state is relatively strong and free from interdependence its sovereignty seems to be solid, but it is not true. Strong state shapes sovereignty, gives sovereignty its specific form. The sovereignty is still liquid, but cannot outflow from the state to another actor. What happens in the case of weak or failed state? We can compare the state with a closed plastic bag, filled with sovereignty. When external pressure is too high sovereignty outflows to another actor – the best example is the case of Czechoslovakia and the Third Reich (and Poland) in 1938. When internal pressure is too high this bag can “explode”, and then sovereignty will flow to other actors. And once again Czechoslovakia can be an example – after the Cold War, as a result of internal pressure this country was divided, and sovereignty flew to two separate entities.

Conclusion

Sovereignty relies on the idea of exclusive political authority exercised by the state. This conception refuses right to sovereignty to other political actors, because they are non-territorial, so that not-sovereign. But the idea of territorially defined sovereignty is obsolete, and in the post-modern world sovereignty leaks away from the state. New regional, supra-national and non-territorial entities gradually start “leak process” in that bag. So, why does sovereignty flow? Because the states are “too weak to stop the leak”. We don’t live in the world, where states have supreme power. The old order, which emerged in conditions of an interdependence of national states, clashes with a new one, still not established order, whose shape and structure are both inscrutable and worrying. We are experiencing clashing and overlapping of two orders, modern (national) and post-modern (cosmopolitic) at the same time. Ulrich Beck calls that situation metagame, where two types of actors (states and non-state actors), different but interconnected, take part in the game of politics. The latter group forces into areas traditionally reserved for the State and undertakes economic actions, which in a large part disturb sovereignty of national state¹². State, whose role is neglected, state

¹² O’Neill. K. (2004) , *Transnational Protest: States, Circuses, and Conflict at the Frontline of Global Politics*, “International Studies Review” no. 6, ss. 233-251.

which cannot prove its indispensability, state which cannot provide security for its citizens. In this situation sovereignty flows from the state.