

The Performativity of Sovereignty: Challenging Essentialism within IR Theory

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<https://www.e-ir.info/2020/12/19/the-performativity-of-sovereignty-challenging-essentialism-within-ir-theory/>

NICO EDWARDS, DEC 19 2020

Sovereignty has been a constitutive feature of international relations (IR) scholarship since the discipline's very inception. As a concept, it permeates every level of analysis – from the sovereignty of individual will and human rights, to the sovereign power of government, and further on to the territorial sovereignty of the nation-state, setting the boundaries and scope for the playing field of inter-national relations. However, by way of a series of theoretical essentializations the concept has been rendered an ontology on its own, allowing for the notion of 'sovereignty' to exist apriori to its *practical* and *discursive* evocations. Rather than constituting the open-ended result of accumulated practice, sovereignty has become an unquestioned *state of being*. By invoking 'anarchy' as that which exists outside of the territorial boundaries of the sovereign state, 'sovereignty' pre-discursively calls into being the very world envisioned by mainstream IR theorists.

Challenging theory and practice alike, in what follows I demonstrate how sovereignty is 'essentially contested' once you approach it through the critical lenses of performativity. I begin by outlining the conventional understandings that construct sovereignty as an essence dependent upon objective (though varying) criteria. Through undertaking a performative reading of sovereignty as discourse and practice, I then illustrate the ways in which 'an essentialist notion of sovereign statehood ... is not an innocent conceptual fallacy' (Aalberts 2004, 257). Instead, when looking at the simultaneous consistency and ambiguity of mobilisations of sovereignty in the history of international law, essentializations of the concept reappear as integral to the '[concealment] of sovereignty as a *political practice*' (2004, 257). In the following reflection I thus prove that, rather than invoking something 'to be' or 'to have', sovereignty is effectively *performed*.

Essentializing sovereignty

Throughout realist, liberal and mainstream constructivist literature the territorially sovereign (nation)state comprises the main unit of analysis (see Doyle 1986; Morgenthau 1948; Wendt 1992). At the heart of this disciplinary myth-building lies the Peace of Westphalia, signed in 1648 to mark the end of religious warfare in Europe and the ushering in of territorially defined statehood (Tickner 2011, 5). This final demarcation of territorial boundaries enabled the ontological separation of the *inside*, defined by exclusive sovereign authority, from the *outside*, marked by the absence of such authority. This separation was to be specifically entrenched in IR literature with the break from classical to structural/systemic or neo-realist theory spearheaded by Kenneth Waltz (1959; 1979), as he conceptualised the world in terms of a proliferation of 'formally like units' wherein sovereignty is contained, dispensed in an international space defined, in the absence of a higher power, by anarchy (Barkawi 2010, 1361). Apart from recognising differences in power and capability between states, their formal likeness, especially relating to their assumed territorial fixity, affords them the recognition of sovereign statehood – as if endowed by nature. This has made IR theory fundamentally reliant upon 'the reification of state territorial spaces as fixed units of secure sovereign space' (Agnew 1994, 77). Wedding the notion of the state with such fixations of territory while designating this space as not only the 'domestic', but also the locus and source of 'sovereignty' itself (further equated with 'an internal realm of order and tranquillity' Doty 1996, 148), has thus enabled the construction of sovereignty as a pre-discursive trait or essence of the territorial state.

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Nevertheless, the end of the Cold War rekindled scholarly interest in issues of sovereignty. Questions of when and why sovereignty is recognised, and whether sovereignty is necessarily tied to a territorial space or can be located to designate a population rather than a state, proliferated with the disintegration of the Balkans and the intensification of globalisation processes (Biersteker and Weber 1996). Some sought to explain the differences in sovereign expressions and capacities, especially relating to the apparent failure of 'postcolonial statehood' (Aalberts 2004, 245; Doty 1996, 147). Constructivist interventions, notably Wendt's (1992) re-situation of 'anarchy' as being 'what states make of it', recognised the social construction of sovereignty in terms of the constitutive relation between sovereignty and statehood and the fact that neither exists outside of intersubjectively negotiated meanings, social practices and relations. Yet, less critical constructivist approaches easily fell into the same descriptive traps as realist and liberal conceptualisations of the sovereign state, still assuming the same picture of the international as a structure of formally like units – though acknowledging the social production rather than natural givenness, of said order. Others however, took the quest further.

Deconstructing sovereignty as ontology

Departing from mainstream international theory, critical scholars who instead drew on poststructural thinking sought to situate sovereignty within the burgeoning literature on social construction and performativity. 'Its meaning might be marginally contestable by constitutional lawyers and other connoisseurs of fine lines, but for the most part state sovereignty expresses a commanding silence' R. B. J. Walker (cited in Weber 1992, 199) pondered in 1992. Instead of recognising sovereignty as 'essentially contested' given the proliferation of enquiries into the nature of sovereign statehood, Walker (1992) concluded that sovereignty remained an 'essentially *uncontested*' concept. To explore the 'commanding silence' characterising discussions of what state sovereignty really entails, we can use Jackson (1991) as a key sample of the reification of sovereignty in IR literature.

If conceptions of sovereign statehood were conventionally understood in the Westphalian terms of anarchy/outside versus sovereignty/inside, the 1980s marked a shift in scholarly attention to deal with the emerging issue of especially sub-Saharan African postcolonial states' revealing of the opposite: (alleged) *international* accord and *intrastate* disorder and violence (Doty 1996, 148). 'In this context one might wonder what meaning can be attributed to sovereignty' Aalberts (2004, 247) notes, 'now that it can also signify its opposite, i.e. a zone of anarchy.' To make sense of this inversion of the meaning of sovereignty, Jackson (1991; Jackson and Rosberg 1982) set out his thesis of the *quasi* versus *real* state. Signalling a shift in the international normative order, African postcolonial states came into being at a time when the criteria of the so-called *positive* sovereignty of *empirical* statehood was no longer necessary to gain international recognition for being a sovereign state (Jackson 1991, 1). Instead, newly independent states were granted the 'formal-legal condition' of *negative* sovereignty, protecting them from external interference despite not enjoying the 'empirical criteria' of 'substantial and credible statehood', such as 'a capacity for effective and civil government' (Aalberts 2004, 252-53).

In marking the temporary condition of postcolonial states to be granted 'entry into the international order' before (the argument goes) their necessary and natural progression into possessing positive sovereignty, quasi-statehood effectively reiterates the standing of 'real' statehood. Further, it serves as a reminder of the constitutive role of sovereignty in structuring the international order, normatively and materially. Though underscoring sovereignty as part of productive 'language-games' central to the construction of international law and politics, this account, 'given the assumed empirical kernel of "real statehood" ... [still] renders sovereignty an institution that exists *apart from* international practice' (2004, 256). It so fails to move beyond the 'descriptive fallacy' of 'conventional sovereignty discourse', instead seeking to 'save sovereignty itself' through 'reaffirming the "real" and "true" foundations of sovereign statehood' (Doty 1996, 149). As such, 'the analysis on quasi-statehood ... serve as a representative of a generation of essentialist readings of sovereignty' (Aalberts 2004, 247).

To essentially *contest* sovereignty then, is to completely recast and rethink sovereignty and its relation to statehood, as a 'subject in process'; a state of *becoming* rather than being. Linking Butler's theory of the performativity of sex and gender to the subject of the sovereign nation-state, Weber (1998, 79) demonstrates how, rather than belonging to the separate realms of the natural versus the social or cultural, sovereignty and statehood must be rethought as 'co-constitutive and inseparable.' Situated within larger structures of meaning, sovereignty and statehood constitute each

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other through a series of representational/citational practices where the meaning of either is derived from how it is performed and put into practice. Rather than stopping at Jackson's descriptive claim that what explains the recognition of juridical statehood can be found in a shift in international normative regimes, a performative reading of sovereignty provides a deeper explanatory opportunity probing into the very production and reiteration of said regimes.

Instead of deriving pre-discursively as an essential state of being, it is this *enacting* of what it means to 'be' a sovereign state or 'assert' sovereign power, that constitutes the de facto locus of sovereignty. If 'anarchy is what states make of it', states *are* what states *do*. Importantly, however, when states *do* they effectively call their sovereignty into being – in myriad, both logical and inconsistent ways. Nevertheless, situated within and indivisible from larger structures of power, recognising sovereignty as *performed* does not entail that all states enjoy equal opportunities of its enactment, recognition and ultimate 'success.' The power to both assert and recognise state sovereignty can in turn become tools with which to deny or contest the sovereign legitimacy of others. This double utilisation of sovereignty is a central feature of international relations in general and international humanitarian law (IHL) in particular, whereby some states assert their sovereign power and so reinforce their own sovereignty through designating other states as incapable or unqualified – indeed, as *quasi*.

To reiterate, this is not to say, as does mainstream international theory, that sovereignty is thus something a state simply *has* or does not *have* depending on certain objective criteria. Instead, when highlighting sovereignty as performative, the seemingly 'natural' criteria of enjoying sovereignty or not and the practices through which processes of recognition or denial take place, are denaturalised and rendered features of a larger system of normativity/deviance production: '... understood as the ongoing processes whereby "regular subjects" and "standards of normality" are discursively constituted to give the effect that both are natural rather than cultural constructs' (Weber 1998, 81). The next section will explore an example of these processes of distinction, delineating the metrics of inclusion and exclusion in the international through reifying and naturalising discourses of sovereignty and assertions of sovereign power.

Sovereignty in practice

Attention to practices of differentiation in constructing the international critically undermine the explanatory capabilities of Jackson's theory of quasi-statehood. Pointing to the historical consistency of which states are recognised as fully sovereign subjects and which are rendered undesirable, thus conquerable, objects in the international, Jackson's negative-sovereignty/positive-sovereignty binary reappears time and again as the exploitable product of particular configurations of power. Through 'splitting sovereignty into positive and negative, and positing to each an essence that invokes images of identity that have been present in many of the past imperial encounters between the North and the South' (Doty 1996, 151), contemporary discourses which differentiate between real/functioning and quasi/rogue states thus perpetuate a long history of colonial justifications for domination.

This is particularly evident in IHL frameworks. Take for instance the Responsibility to Protect (R2P) principle. Marking yet another international normative shift from viewing sovereignty as the right to non-interference to a responsibility of non-indifference, the R2P bestows upon all UN member states the right to intervene whenever a state is not willing or able to protect its population from genocide, crimes against humanity, war crimes and ethnic cleansing (Mamdani 2009; Williams and Bellamy 2011). Of interest here, is the fact of the R2P regime's enabling of a 'bifurcation of the international system between *sovereign states* whose citizens have political rights' and *trusteeship territories* whose populations are seen as wards in need of external protection' (Mamdani 2009, 53). This echoes former divisions of the international along 'the standards of civilisation' legitimising the colonial conquest of non-European lands and peoples (Anghie 2007) – those yet to be civilised – through endowing 'sovereign' states with a right to intervene in those failing its 'rights to sovereignty.' The point here is not to argue against or in favour of the R2P and its utility, but to highlight the fleeting even ambiguous role of sovereignty as concept and practice in structuring international law, continuously mobilised on behalf of stronger ('real') states to delegitimise the sovereignty of ('failed') Others to justify interventionist policies. The act of naming some states rogue/failed/quasi – or even queer (Weber 1996) – thus serves to legitimate military and other interventions in the name of humanity, while

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reinforcing and reiterating the sovereign standing of the *acting* states against the 'incompetent', 'evil' state being *acted upon*.

Simultaneously, however, not only the stripping of sovereignty for the sake of facilitating intervention but also the recognition of sovereignty can be equally utilised by stronger states as a key piece in power-political struggles. Libya constitutes a significant example of both processes. On the one hand, the 'coalition of the willing', spearheaded by the US, UK and France, utilised the R2P as a justificatory frame through which to denounce Libyan president Gaddafi's sovereign authority and so intervene militarily through what turned into a de facto regime-change campaign (Wai 2014); marking a key instance of the risks of R2P abuse in wider power political struggles. On the other hand, the 'international community's' selection and recognition of the Transnational National Council (TNC) amid ongoing conflict marks a particular practice of legitimacy and force which 'should be interpreted in the context of the colonial history attending this problem's prior articulations' (Çubukçu 2013, 49).

These articulations surface in the logic of 19th century colonial powers' granting of 'legal personality [to select native representatives] in the form of sovereignty precisely to enable the transfer of this sovereignty' back to colonial administrators, passing on the rights to trading, territory or title (Anghie 2007; Çubukçu 2013, 49). International intervention in Libya in 2011 thus 'also involved the problem of recognizing "who is sovereign and why"' (Çubukçu 2013, 49). The US and allies' granting of sovereignty to the TNC consequently facilitated a 'new legal personhood in Libya who can sign treaties and enter into contracts (with their companies) to trade oil, to "reconstruct" the country, and, ... to "commit to all international conventions and protocols relating to Counter-Terrorism"' (2013, 49). In short, to do 'the West's' bidding.

Conclusion

The fluid yet generative usage of sovereignty in the Libyan case, succinctly illustrates that 'to speak of sovereignty ... is never to name something that already is' (Ashley and Walker 1990, 381). Nevertheless, to contest sovereignty as a pre-discursive reality or state of being, is not the same as arguing that conventional understandings of how sovereignty is constructed or operates (or to who it belongs) are at all times wrong or irrelevant. Instead, this essay has demonstrated that contesting sovereignty as such means highlighting the performative nature of sovereignty as *exercised* rather than *possessed*. Both older and more recent conceptualisations of sovereignty in international theory, Jackson being a key example, has remained safely behind the walls of description. In so doing they have failed in *explaining* just how and why sovereignty, in meaning and practice, rather appears as an elusive process varyingly operationalised for particular political objectives, situated in particular historical contexts: at times serving power, in others providing a recognised language to speak truth to power.

Contesting essentializations of sovereignty further enables a deeper and more comprehensive understanding for how sovereignty can at once be mobilised within its conventional binary confines (sovereign/non-sovereign; real/quasi; functional/failed; empirical/judicial) in the service of power politics, as well as adopt queer and undecipherable forms (see Weber's 1999 discussion on queering Castro's Cuba). As with theory (Cox 1981), 'sovereignty' is always for someone and some purpose; sometimes stripped, in others recognised – and yet in others, as Libya reveals, both at once. International humanitarian law thus underpins sovereignty as a socio-cultural product through demonstrating its discursive mobilisation and practical enactment in the service of specific interests. IHL further highlights the paradoxical and ambiguous nature and invocation of sovereignty throughout history, underscoring its essential contestation. Rather than demarcating something fixed and essentially 'known', sovereignty reappears as a constant state of becoming. Ultimately, this denaturalisation of essentializations of sovereignty aid us in understanding how theory, such as Waltz', Jackson's and their predecessors', has been and continue to be, integral to perpetuating the structuration of the international order as one of hierarchy rather than anarchy. International Relations curricula would benefit from taking note of this.

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