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SOVEREIGNTY AND GLOBAL GOVERNANCE: A JURISPRUDENTIAL EXAMINATION OF BALANCING STATE AUTONOMY AND COLLECTIVE JUSTICE

- Tilottama Bardhan[1] & Soumi Karmakar[2]

ABSTRACT

"In the 21st century, the challenge is not just to promote global governance, but to ensure that it works for everyone, everywhere."

-Kofi Annan, Former UN Secretary General.

The article is an interrogative doubt in the language of present-day jurisprudence, on the timeless confrontation between the sovereignty of states and claims put forward by global government. Sovereignty still plays a central role in the international legal order, but only to the extent that it must be re-balanced for the age of globalization (including climate change, enforcement of human rights and transnational commerce) towards the power of mutuality over absolute autonomy. A guiding question of this research is: what do institutional and jurisprudential practices have to offer by way of satisfying the normative demand for collective action in a globalised order while allowing room for state independence? The study uses a doctrinal approach that is based on the primary legal sources of law, treaties and case-law and is enhanced by comparative legal analysis research between positivist and naturalist viewpoints, respectively.

Case studies on the Paris Agreement, international mechanisms for human rights enforcement, and global trade regime show that the lend to a qualitative focus on practitioners of international law to reveal both systemic pathologies as well as serious normative deficits. The results provided of evidence that sovereignty is not a constant, but an evolving and structural phenomenon which follows the up and downs of the modern system of

[1]Masters in Law (LL.M.)
[2]Masters in Law (LL.M.)

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rule. The legal theory, institutional practice and moral imperative are united to constitute the shared sovereignty as a module position to ensure that the state can uphold its sovereignty and, in this way, allow the international institutions in expressing themselves freely for putting on stage the interest of the entire world. As a result, it helps in contributing to the broader discourse on international law which offers a jurisprudential framework that reconciles the concept of sovereignty with the principles of global governance and sustainability.

I. INTRODUCTION

The Focus of modern international law and jurisprudence is the conflict between state sovereignty and global governance.

Traditional definitions of sovereignty include a state's supreme Authority and the focus of contemporary international law and jurisprudence. Sovereignty, traditionally defined as a state's "supreme authority within a territory," assures states of the right of self-rule and legal sovereignty. On the other hand, Global governance, by contrast, is the emergent international system of rules, institutions, and norms and regulations to promote and to foster cooperation on transnational problems. This dichotomy has grown ever more acute as cross-border problems (from climate change to human rights crises) cause multilateral action that exceeds the ability of any one state. Understanding this dichotomy is imperative because modern international legal order must harmonise states' sovereignty with interests of justice and common good globally. This article critiques the foundations of sovereignty and international governance, which analyses competing theories of jurisprudence, and summarising institutions' roles internationally, and evaluates case studies (climate, human rights, trade) to analyse how ethical and legal frameworks balance state rights and collective justice.

II. THEORETICAL FOUNDATIONS OF SOVEREIGNTY AND GLOBAL GOVERNANCE

Classically, sovereignty has been understood as a state's ultimate legal power. In its central meaning it is that in its territory the laws of a state are paramount, and no other power can overrule them. For instance, Jean Bodin in the 16th century defined sovereignty as "absolute and perpetual" power in the state, restricted only by divine or natural law. Subsequent philosophers like Hobbes and Austin showed sovereign power to be almost absolute: the sovereign's command is law, underpinned by force. Over time, however, the concept of sovereignty evolved. The Peace of Westphalia (1648) codified the concept of sovereign

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territorial states. By the 20th century, as Britannica demonstrates, innovations such as human rights treaties and collective security concepts began "ceasing" to be considered as synonymous with unrestricted power". In practice today, sovereignty includes juridical independence (no foreign sovereign) and equality of states in politics. Article 2(1) of the UN Charter in particular sets forth the international order on the "sovereign equality of all its Members". Yet modern sovereignty is bounded: states choose to sign treaties, become members of agencies (like the EU or WTO), and accede to human rights treaties, thus creating an entwined web of shared authority. [34]

Global governance typically includes the regime of formal and informal rules that govern international cooperation on transnational issues. One definition puts it as "the system of institutions, rules, norms, and procedures" through which states and other entities are enabled to work together on issues that cross borders. It is comprised of diplomatic institutions (UN, G20), international law (treaties, conventions), and non-state actors (NGOs, multinationals). Global governance is an answer to issues like climate change, pandemics, trade, security, and human rights that no single state can address alone. Its importance has deepened with globalization: economic interdependence, transnational networks, and threats like nuclear proliferation need collective regulation.

Global governance is plagued by fundamental difficulties in spite of its necessities. There is no world state with binding decision-making power, and institutions therefore rely on state compliance. Power imbalances may warp outcomes: wealthier states dominate decisionmaking and norm-setting, as alleged in criticism of UN institutions and trade regimes. The vast majority of world institutions suffer from a "democratic deficit" – they are not accountable directly to world citizens, and hence worry about their legitimacy. Second, the growth of treaties and agencies can lead to fragmentation and overlap. Finally, implementation is inconsistent: even agreed norms (such as environmental norms) do not translate into reality. These limitations mean that global governance must tread carefully on the path between guiding states towards cooperative action and being mindful of state prerogatives.

III. JURISPRUDENCIAL VIEWS

[3] Jean Bodin, Six Books of the Commonwealth (1576, trans M.J. Tooley, Basil Blackwell 1955)
[4] Thomas Hobbes, Leviathan (Andrew Crooke 1651)

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Jurisprudence provides different views to sovereignty and international norms. Legal positivism, associated with H.L.A. Hart and earlier writers like Austin, is the view that the validity of law is to be found in social facts (e.g. legislative enactment) rather than in moral content. According to this view, sovereignty in a state derives from its rule of internal recognition: legal officials treat certain criteria (constitutions, statutes) as authoritative. In one interpretation, Hart "separated the nexus between law and sovereignty," arguing that law can exist apart from an issuing sovereign. Positivism in practical application argues international law and global norms bind states only to the extent they consent to be bound (through custom or treaties). Sovereign nations are the ultimate authors of legal obligations.[5]

Natural law theory, on the other hand, believes law is grounded in universal moral reality. John Finnis and Aquinas-inspired thinkers support that there are essential human goods and rights that law must protect independent of state consent. Sovereignty here is not unlimited; the authority of a sovereign is "bound by natural law" and a duty of justice. Early modern philosophers like Bodin himself too believed that even a sovereign owed account to principles of divine or natural law. Natural lawyers, thus, object to "absolute sovereignty" by calling for peremptory norms (e.g. against genocide) that override state interests. Some moderninternationalists give human rights and humanitarian norms quasi-natural-law status, which binds states to act even when it is against their self-interest. [6][7]

Third is constructivist theory (international relations), which emphasizes that norms and identities are built up through social interaction. Constructivists would also point out that the ideas of the state itself (such as sovereignty) are socially constructed and variable. Such norms against slavery, or new ideas such as responsibility to protect (R2P), therefore have shifted what states should do, rather than merely what they have promised to do. International civil society and transnational actors, operating over time, create "norms cascade[s]" which alter state behaviour and the content of international law. Thus, constructivism conceives of sovereignty as progressively redefine: states more and more

[5] HLA Hart, The Concept of Law (3rd edn, OUP 2012)
[6] Jean Bodin, Six Books of the Commonwealth (1576, trans M.J. Tooley, Basil Blackwell 1955)
[7] John Finnis, Natural Law and Natural Rights (2nd edn, OUP 2011)

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view some international norms (trade rules, human rights, environmental obligations) as constitutive of proper state identity instead of as outside stipulation.[8]

These jurisprudential approaches highlight the underlying split: positivists highlight state independence and consensual legislation, while natural law and constructivists emphasize greater responsibilities and emerging norms that might restrain unlimited state power. International law in action typically resembles a blend: states will assert sovereignty, but will embrace restraint (e.g. not torturing nationals) as either morally necessary or simply a function of international community membership.

IV.JURISPRUDENCE AND THE CONFLICT BETWEEN SOVEREIGNTY AND GLOBAL MANAGEMENT

Regarding orthodox legal positivism, all states are sovereign law-makers. Positivists like Hart conceive of law as the product of rules accepted by officials within a given jurisdiction. Thus a sovereign state obtains authority through its internal rule of recognition (constitutional law), and not through any external norm. In this view, international law is merely the sum of established rules (treaties, usages) and secondary to national law. Hart in The Concept of Law broke with earlier command theories by conceding that law may exist without a single sovereign, but he maintained that legal validity depends on social acceptance. In practice, positivism is that a state can choose in or out of international governance arrangements. For example, if a treaty provision is incompatible with a core domestic policy, a positivist would argue that the state is not bound unless it so on express intention to agree. This position justifies

such reservations as the U.S. reservation to exclude elements of the Rome Statute or the WTO's flexible obligations clauses. [9][10]

The advantage of positivism is that it preserves the classical conception of sovereignty: states legally have supremacy unless they voluntarily alienate power. It also provides clarity as to legal sources. The disadvantage is that it has the potential to render international law impotent: if states can ever use sovereignty to preclude "unjust" norms, world justice suffers.

[8] UNGA, "Responsibility to Protect: Report of the International Commission on Intervention and State Sovereignty" (2001)
[9] HLA Hart, The Concept of Law (3rd edn, OUP 2012)
[10] World Trade Organization, "Understanding on Rules and Procedures Governing the Settlement of Disputes" (1994)

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Positivists reply that consensual law is still law, and morality is a separate matter. However, as Helfand notes, this debate is an expression of an "age-old philosophical debate over sovereignty's relationship to law".

Natural Law's Refutation of Absolute Sovereignty

Natural law philosophers respond to the positivist argument that consent is the overarching factor. In their view, certain norms bind all of humankind by virtue of human nature or morality. On this understanding, sovereignty is not a free pass to act as one wish; sovereignty comes with inherent duties. For instance, Bodin himself conceded that the sovereign is bound by natural law and divine law, if not by ordinary human law. In modern terminology, key values like justice, human dignity, and fundamental rights are considered to "overhang" law (the overlap thesis). Hence, an unjust action by a sovereign (e.g., genocide) would be illegitimate even if "legal" domestically. [11]

Such is the train of reasoning behind doctrines like humanitarian intervention and the Responsibility to Protect (R2P). R2P, endorsed by the UN in 2005, unmistakably redefines sovereignty: it "implies a responsibility" to safeguard people against mass atrocities, and can legitimize foreign intervention if a state fails to. It rightfully makes sovereignty hinge on compliance with minimal moral standards. Such ideas align with Finnis's view of law as serving the common good and in defence of elementary goods (life, family, knowledge, etc.). In international order, that means that human rights obligations (most commonly formulated in natural-law categories) can rightly limit state sovereignty. [12][13]

Natural law also appears in customary and jus cogens norms. International law recognizes that some obligations in treaties are not binding where they are contrary to peremptory norms (i.e. prohibitions on slavery and torture). This suggests that even an express consent of a sovereign cannot override elementary moral/law rules. In general, the natural law school

[11] Jean Bodin, Six Books of the Commonwealth (1576, trans M.J. Tooley, Basil Blackwell 1955)
[12] John Finnis, Natural Law and Natural Rights (2nd edn, OUP 2011)
[13] UNGA, "Responsibility to Protect: Report of the International Commission on Intervention and State Sovereignty" (2001)

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contends that state sovereignty is subject to justice and the common good, serving a check to radical positivism.[14]

V.CONSTRUCTIVIST THEORIES: CHANGING NORMS AND A TRANSNATIONAL LEGAL ORDER

In excess of theory normative, constructivist theories remind us that sovereignty's meaning changes. That is, what "sovereignty" in 1648 implied (monarch's unlimited power) no longer implies today (constitutional democracy, human rights). International norms change by collective insight. Take climate policy: the Paris Agreement (2015) was built upon the new norm that states collectively must combat climate change. Every country has sovereignty in that it makes its own nationally determined commitment, yet cooperation norm generates peer pressure and reputational costs of non-compliance.

Similarly, most states have also internalized human rights norms: it is almost internationally accepted today that governments must protect free speech, even if some still violate it in their own nations. Constructivists would claim states increasingly define themselves through such international norms. Gradually, newer norms (such as online privacy or gender equality) can become as untouchable as earlier notions of sovereignty.

Therefore, constructivism anticipates a cumulative mix of international governance and sovereignty: sovereignty no longer as an immutable "power to" but as a role to which burdens fall on the international community. World legal order therefore results not merely from treaties but from evolving state practice, judicial decisions (ICJ cases), and evolving public expectations.

VI.THE INTERNATIONAL INSTITUTIONS' ROLE IN MANAGING SOVEREIGNTY AND GOLABL GOVERNANCE

United Nations, International Criminal Court, WTO and Beyond

International organisations and institutions help supporting equilibrium between the sovereignty-governance balance in check. State Sovereignty serves as the founder for the UN: which enshrines non-intervention (nothing shall authorise the United Nations to

[14] Vienna Convention on the Law of Treaties (adopted 23 May 1969, entered into force 27 January 1980) 1155 UNTS 331 art 53

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intervene in matters which are within the domestic jurisdiction of any state, UN Charter Art. 2(7)), and reaffirms sovereign equality of all members. The UN also provides the principal platform for concerted action. On the other hand, the Security Council can impose sanctions or peacekeeping, even coercive measures (Chapter VII enforcement) involving sovereign states.

The International Court of Justice (ICJ) resolves legal disputes following international law, binding consenting states. The UN system thus makes up a subtle give-and-take: it is to be reported by virtue of states' sponsorship (and respect for sovereignty), but also penalises misbehaviour (e.g. outlawing aggression, slavery). [15][16]

The International Criminal Court (ICC) is a more recent institution built to uphold the world [17] justice by prosecuting crimes against humanity, war crimes, genocide, and aggression. It was established by treaty (the Rome Statute) and only exercises authority over state parties or situations referred by the UN Security Council. The ICC shows tensions among some states such as the USA, China, and India as they have refused to sign up, fearing loss of control over soldiers or political leaders. Other states such as some African states have asserted the ICC intrude on their sovereignty or unfairly targets them. The ICC can investigate individuals but not the state itself, but it can order the states' parties to arrest suspects, which some see as replacing national judicial immunity. So, whereas the ICC promotes collective justice and accountability, it does so only to an extent (i.e., with the cooperation of states) and stokes argument about the extent of sovereignty in criminal justice.[18]

The *World Trade Organization* (WTO) is another excellent example. By becoming members of the WTO, nations subscribe to the WTO trade rules and rulings of its mechanism for resolving disputes. The WTO's Dispute Settlement Understanding (DSU) expects members to submit to impartial panels and abide by decisions on trade barriers. The result is "trade legalism": states' domestic laws may be invalidated or face sanctioned penalties if they violate rules of trade. Indeed, a WTO panel can make a state's subsidies or regulations

[15] HLA Hart, The Concept of Law (3rd edn, OUP 2012)
[16] Charter of the United Nations (adopted 26 June 1945, entered into force 24 October 1945) 1 UNTS XVI
[17] Rome Statute of the International Criminal Court (adopted 17 July 1998, entered into force 1 July 2002) 2187 UNTS 90
[18] Rome Statute of the International Criminal Court (adopted 17 July 1998, entered into force 1 July 2002) 2187 UNTS 90

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unlawful under WTO agreements, inducing legal adjustment. Similarly, the WTO mechanism respects sovereignty in that any state may withdraw from membership (although cost of operation discourages it). This is mere tip of the iceberg, though: trade rules create binding expectations an interesting illustration of how an international institution can impose regulatory power on states' policies in a specific policy area.[19]

Case studies of cooperation and resistance

States respond quite differently to these institutions. Occasionally, they collaborate where the interests overlap-for example, the UN Framework Convention on Climate Change and Paris Agreement are endorsed by most states despite their concerns of sovereignty, since climate action is widely seen to be justified. States also join WHO, IMF, and so on in order to harmonize common causes. There is resistance, however, whenever states perceive sovereignty to be compromised. The U.S. entered Article 98 agreements to protect American personnel from ICC jurisdiction, and signed—and backed out of—several international treaties (e.g. Kyoto climate protocol, Paris climate agreement (withdrew then rejoined), UNESCO). In business, countries employ safeguard clauses, temporary tariffs or exit the GATT regime when this is in conflict with national interests. Generally, global institutions only operate when states see sufficient advantage or legitimacy.[20]

Legal and Pragmatic Challenges for Institutions

International institutions create both legal and pragmatic challenges. Legally, they have limited enforcement power: the UN relies on member states to implement Security Council resolutions or ICJ judgments. The WTO can impose sanctions, but only proportionate to the harm. All too often the only true "world law" is the intention of powerful states to comply or sanction others. In reality, institutions are hindered by politicization and budget deficits. For example, the ICC's reliance on state cooperation makes the court irrelevant if a country refuses to give over a suspect (something a few have done). UN peacekeeping involves the sending of troops and resources by member states, which results in unpredictable capacity. Also, in addition to this the powerful states hold veto or are otherwise hostile to reforms. Security Council permanent members frequently oppose the reforms that would abate their

[19] World Trade Organization, "Understanding on Rules and Procedures Governing the Settlement of Disputes" (1994)

[20] Rome Statute of the International Criminal Court (adopted 17 July 1998, entered into force 1 July 2002) 2187 UNTS 90

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privilege. Such obstacles lead to global institutions always balancing on the thin edge between nudging states towards common norms and keeping their sovereignty intact enough to preserve their involvement.

VII. GLOBALISATION AND IT'S IMPACT ON SOVEREIGNTY

Globalization has deeply reshaped the functional role of sovereignty. The free flow of capital, goods, information and individuals has "penetrated" traditional frontiers. As Princeton scholars point out, the "growing interdependence of States" has narrowed areas of wholly internal jurisdiction and widened areas where foreign penetrations prevail. No country can now shield itself behind its regulatory fences; trade agreements, investment agreements, and multinational corporations can constrain or shape internal policy. For instance, multinational companies can exert legislative power through international agreements, and international markets can force governments to maintain responsible economies. Late Thomas Friedman once stated that the forces of capital, labor, or ideas of globalization tear down the "walls of sovereignty" as protection.

It does not mean that sovereignty has disappeared but has been reinterpreted. Many states have willingly pooled or transferred some domains of sovereignty. The most noticeable instance is the European Union: Member States derogate some legislative and judicial power to EU institutions, tolerating supranational judgments overriding national law in specific fields (e.g. competition policy, single market law). This "shared sovereignty" model allows for deep cooperation but relies heavily on robust legal tools to align national and EU law. Elsewhere, joint sovereignty provisions are found in treaties (e.g. the Intergovernmental Panel on Climate Change, joint military commands, and international courts). Even in the absence of formal pooling, the ideal of unfettered independence is out of touch: no State has supremacy in law over another state in our globalised world, according to one source.

Global legal regimes have appeared into several fields like human rights, environmental protection, and financial regulation. States realise that certain standards are expected globally (e.g., Paris climate-change targets, or Basel accords' bank-capital requirements). Although there's some flexibility in the details, completely turning it down might bring international criticism or trade penalties. As a result, the idea of sovereignty no longer works as some kind of unbreakable defence for gains worked out in negotiations. Evidence points to states

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holding a form of conditional sovereignty in general terms. These states stay sovereign in many ways but they end up linked to the wider world out there.

VIII.CASE STUDIES: SOVEREIGNTY VS. GLOBAL GOVERNANCE The Paris Climate Agreement 2015

The Paris Accord of 2015 explicitly indicates the conflict between national sovereignty and international action. The treaty established their own target on nationally determined contributions (NDCs) in lowering emissions by 195 countries. The treaty imposes on the parties procedural duties in law (e.g. to consider commitments, to report progress), but not on the content of each commitment. The structure is also respectful to sovereignty, but also respecting the sovereignty of the individual countries. States are free to do so completely at will and punitive machinery is not coerced and applied. There is a powerful international architecture and reporting system of the deal to promote compliance, however. The victory of the Paris is the victory of the compromise: the global warming targets were negotiated, however, their implementation is in the choice of each state. An exception was when the U.S. withdrew (2017) and rejoined the Agreement on sovereignty and economic grounds on the sovereignty test between international cooperation and national sovereignty. In general, the Paris reflects a political and legal endeavour to tie sovereignty and a world issue: states are actors as peers but not as subordinates and subjects of command.

Like the case, Human Rights Interventions and ICC are similar cases. The tradition of sovereignty did not allow outside intervention into the domestic matters of a nation. However, with World War II and the Holocaust norms have been embraced by international society (as in the UN and Genocide Convention) that occasionally permit the sovereignty to be overridden in averting atrocities. This is reflected in the ICC that was set up in 2002: it claims the authority over people involved in crimes against humanity and its aim is to ensure that justice prevails even without paying attention to borders. A small success (the conviction of Thomas Lubanga in the DRC, an example, though) demonstrates that the global norms result in accountability. Yet, hardships have to be survived: non-member states such as U.S. China and Russia avoid under the ICC jurisdiction, claiming the sovereignty. A few African countries have gone to the extent of threatening withdrawal due to bias. Further, when the African Union members requested the UN Security Council to recess ICC cases (e.g. Kenya elections), the latter member took no action claiming political reasons instead of law. The examples indicate that even though international human rights standards are supposed to

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disrupt and transcend sovereignty (particularly when crimes against humanity are involved), their implementation is founded on politics of power and accords. ICC is pushing the states to assume responsibility, yet it remains not to overcome the norms of sovereignty; rather, it is acting inside these norms, showing the potential and constraints of the global administration of human rights.

Global Trade and the World Trade Organization

WTO has 164 member countries (as of 2025) that follow the tariff limits and trade norms. Its binding settlement mechanism permits the national measures to be reversed by neutral panels which do not conform to WTO norms. As an illustration, in case one of the member states illegally subsidises its industry, the other state member can take it to WTO; in the event of conviction, the nation engaging in subsidisation must be made straight or it must suffer authorised penalties and retaliations. This system is successful in restricting policy decisions: the Appellate Body decisions and the panel decisions bite even when a policy measure was popular and democratic in the state. In Movsesian explains that those who oppose the WTO worry that such a shift towards trade legalism will result into a loss of national sovereignty and democratic self-government, but the proponents state that it will introduce fairness and certainty. In fact, the U.S. has at some point, disobeyed WTO rulings (ex: Boeing-Airbus of subsidies) and has attempted to reconstruct the Appellate Body by appointment. Whereas the poorer countries are periodically indignant over WTO regulations that they do not allow them to develop their own industrial policy. The WTO is however a historic co-operation: most of states have accepted this cession of part of sovereignty in the interest of open markets. WTO narrative demonstrates success (as all rules-based trade regime that has lasted decades) and conflict, and a narrow boundary between sovereignty and norms.

Case Study Analysis

Climate regime building problems on sovereignty have the tendency of slowing down the development process. Targets often stay lukewarm. Promises are made to sound voluntary. Nevertheless, this is not the reason to reach some global approach. It has been demonstrated that in ICC and human rights the pursuit of justice can sometimes override the sovereignty boundaries. One of the apparent examples is the prosecution of war criminals. States still retain their major prerogatives. Trade is a different thing. Multilateral principles on a binding basis have held largely there. Such crises as the Appellate Body problems or actual trade wars do not stop even now. When it appears that common good may be achieved, it appears that

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reconciliation between sovereignty and international norms will come into effect. The trade liberalization can be included in that pattern. Action on climate change on a global level does too. It all goes wrong, though, when interests come into an open collision. This failure is brought to the fore through military interventions. Monetary regulation does as well. The discussion suggests that the threshold is toward global governance in instances where cooperation (or non-cooperation) returns are noticed to be high, and where the results are considered zero-sum or conflictual. The dilemma is that the majority of the issues faced in the world (pandemics, cyber-attacks, migration) will require further coordination.

IX.ETHICAL AND LEGAL CONSIDERATIONS IN SOVEREIGNTY AND GLOBAL GOVERNANCE

Balancing State Rights and Global Justice

Ethically, the sovereignty debate is one of justice and equality. Do states owe anything to the world beyond their own citizens? Cosmopolitan theorists say yes: we owe aliens (e.g. aid to disaster areas, reducing carbon emissions) moral obligations which can underpin supranational obligation. Communitarians say back that the initial obligation of a state is its own nationals, and we are undermining democratic accountability by operating external obligations. International law holds the middle position. Human rights treaties impose obligations on all humans (a quasi-cosmopolitan position) but depend upon internal enforcement. R2P [21] affirmatively states "sovereignty implies a responsibility" of protection, manifesting an ethical transformation: state power is no longer the "license to kill" one's citizens. Most legal scholars note that positive law imposes no all-moral claims, but minimum fairness at least demands that states refrain from actions (like torture) universally detested on moral grounds. Thus, an ethical balance is sought in general: states have rights (territorial integrity, self-determination) but bear obligations (respecting universal rights, providing global public goods).

Moral Responsibilities of States in a Globalized World

Shared vulnerability underlies much in international norms. In times of pandemic or ecocatastrophe, the fortunes of one country awaken in others. Interdependence gives rise to a moral responsibility to mutually assist. COVAX vaccine distribution schemes rely on

[21] UNGA, “Responsibility to Protect: Report of the International Commission on Intervention and State Sovereignty” (2001)

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wealthier states helping the poorer ones because they acknowledge an international duty of equity. The climate law principle of common but differentiated responsibility reflects an ethical vision as well: the developed states that have emitted historically are under a special responsibility to help develop states avoid climate change.

Justice and Fairness in International Law and Governance

The international law tends to attempt to incorporate aspects of justice. Most of the time, those efforts are clouded by power politics. It is true that in documents like the 1948 Universal Declaration of Human Rights and the 1970 Declaration on Principles of International Law, there is a continuation of the ideas of equality and equity. The latter assertion clarifies the fact that all states are sovereignly equal. They are also accompanied with equal rights and responsibilities. The Preamble of the UN Charter addresses the belief in the basic human rights. It also emphasizes encouraging social development as one of the fundamental values of the world society. This is all a case of an international system that is not based on transactions. It is in some real sense shaped by principles of justice. What is meant by justice in this case is still a debated issue among people. Accept development aid or debt relief. The struggle to end poverty as well. These have changed their perception on issues of global justice. They are no longer regarded as mere charitable activities. Ideologically, it is not a problem of law to enforce such generalized ideals. The international law is based on consent between states. It is no longer ethically in touch to remain state-only focused. The globalization links destinies where it requires more.

Some such arguments are presented by philosophers such as Rawls in such works as The Law of Peoples. Proper societies have obligations to other people. One example is the aid that is offered to the poorer peoples. Justice as fairness offers the basis of that. Devoid of universal approval, some legal norms arise due to primordial human considerations. The prohibition on indiscriminate warfare is suitable there. The main issue is the way in which appeals to global justice are executed. They must not become instruments of mighty forces. Nor must they undermine the legitimacy of international law as such. With regards to practicality, fairness requires voices of all states to be amplified. UN institutional reforms come into mind. There should be space to differentiate ways of development. There should also be room to cultural differences. Global governance moves on this ground. It pits the legal equality of states with the moral claims suggested by peoples.

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X.CONCLUSION AND FUTURE DIRECTIONS

In this discussion it is apparent that the notions of sovereignty and global governance do not exist in a mere opposition in a strict binary form. Rather, they are just one of the points in a larger range. The concept of sovereignty has been traditionally a state driven phenomenon. People nowadays perceive it as a balance which has both rights and responsibilities. According to jurisprudence, there is both some purported truth in both pure positivism and pure natural law. International order demands contracts between states. It also requires that there is compliance with universal principles. Organizations like UN, ICC and WTO attempt to reach a compromise. They open room to state involvement. Simultaneously, they encourage mutual regulations. Globalisation has torn the boundaries that used to isolate states. But there are new mechanisms it has developed, too. These are treaties, trade agreements as well as courts. States need to make use of them to control their interdependence. The main results indicate that globalization is undermining the existence of the sovereignty that is purely state-centered due to the need to practice it. Moral imperatives on the other hand lead the international community to more justice. The political influence of sovereignty remains very powerful. Most of the states are resistant against any international regulations that may appear to jeopardize their national interests.

Achievement in cooperation such as ozone agreement, WHO standards and peacekeeping efforts show something significant. Such balanced strategies may work out in case states are in charge of the process. Risks are identified in the event of failures and frictions, including failure to meet climate targets on time or withdrawal of a state out of a treaty. The failure to put state interests first may jeopardize the global agenda. One direction of the future could be the responsible sovereignty. Governance structures could be raised by states voluntarily. These would secure legitimate interests. They would also contribute to action together.

Democratization of world institutions could be the beginning of reforms. As an example, enlarging the UN Security Council or enhancing the UN accountability would come in handy. Another alternative is to provide flexible treaty designs. A good example is the country determined contributions in the Paris Agreement. It is also important to reinforce the conflict resolution mechanisms. These must not ignore the local processes in the right way. New innovations such as climate clubs, which are enforced cooperatively, may have a role to play.

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The regional courts in collaboration with international courts may strike the balance between the local and the shared norms. Finally, the development of sovereignty must be obligatory and consensual. International society is able to perceive sovereignty not as the obstacle to collaboration more and more. Instead, it turns into an obligation to others. According to one of the scholars, in the world of legal order sovereignty means independence, and independence has only been regarded as the distinguishing feature of sovereign States since time immemorial saving its independence is consistent with the international law and obligations. It is hoped that a world of law would be a system of international law that would retain the defining features of states and would introduce justice and common good. This involves endless consultation, normative imagination and readiness to adapt traditional teachings to the demands of an interdependent world.

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