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SOVEREIGNTY TODAY

The historic differences of opinion about sovereignty have usually concerned themselves with its real essence, whether a matter of law or of fact, the possibility or impossibility of limits to its exercise, or its proper seat, whether a state, a people, a king, a representative assembly, or a collegiate organ such as the English one composed of both king and parliamentⁱ. The question we should ask ourselves is what happens when Sovereignty disappears but doesn't go away or is decentralized and de-territorialized? Does it still remain sovereignty or do we get a new concept of power that has not yet been defined. Does this new concept of sovereignty come about as a result of political changes today or is it as a result of the human perspective about what constitutes authority and what are the limits and powers of the constituent authority. I don't seek to answer all these questions conclusively, but I do want to bring forth certain queries that challenge the concept of sovereignty in the light of the human perspective today.

From time immemorial sovereignty has been understood in terms of totality, the absolute possession of power and its use in whatever way that is deemed right by the holder of such powerⁱⁱ. With this kind of definition there was a certain kind of psychological belief that came with it, in that people were afraid of the sovereign and never questioned the powers or actions of the said sovereign.

However today we find that the concept has been diluted by several theories floated on the issue of power.

To begin with I may cite the example of Montesquieu who believed in the theory of checks and balances, where every organ of the government is answerable to the other. Secondly I will mention the introduction of popular sovereignty which is literally supreme over all

forms of government because no rule should go against or be in violation of the collective thought. In this case we find that individuals are now more apt to defend what they think are their rights and what goes against the human understanding of humanity. This shows a great leap ahead for those who believe in liberalization as opposed to totalitarianism.

In Hart and Negris conception, sovereignty is the state that governs the worldⁱⁱⁱ, a definition that has come a long way in introducing new thought with regard to political change in relation to the social changes being experienced. However throughout modernity sovereignty has been associated with territory therefore legitimizing the concepts of race, nations and states. But in an age of high liberalization and masigenization sovereignty makes no sense anymore and like many developing nations the suggestion is that we should stop using them. The crisis of legitimization of sovereignty is characterized by the loss of state monopoly of law because it has been relatively detached by the highly problematic concepts of liberal democracy to a greater or lesser degree. As a result colonialism, neo-colonialism and neo-liberalism the same has been evident in the south. More difficult is the question whether the state is also loosing its monopoly or not in an age where the human rights have linked all nations together and there is scrutiny on all actions taken by the state against or for its subjects.

There has been a great growth of international law even though not fully acknowledged by all, and it has had great impacts on the concepts of power today whether directly or indirectly. Under international law therefore, it is commonly acknowledged that sovereignty implies dual responsibility; externally, to respect the sovereignty of other states, and internally, to respect the dignity of all the people within the state^{iv}. Hence at the heart of this conceptual approach there is a shift in thinking about the essence of sovereignty, from control to responsibility of states which also questions the initial understanding of sovereignty and how it is understood today.

Today the modern political thought does not consider the sovereign to be absolute on the whole, based on certain concepts floated and the reality on the ground level today with regard to the theories of

accountability and answerability. Are the governments accountable for what they do and to whom are they accountable to and with regard to answerability whom are they answerable to if at all they are answerable and are the same bodies to whom they are accountable to answerable to or are they both different. These are questions that have been insufficiently answered or avoided. However we find that the governments are indeed accountable for their actions, to its citizens and also other nations with whom they have relations with, or have entered into common agreements with. There are numerous situations where people in different states have taken to the streets to demonstrate about some action that their respective government took but are not satisfied with or do not approve altogether.

Another assumption that has been refuted today is Bodin's assertion that the sovereign in any state must always be a government has a further bearing upon modern political thought^v: it is a virtual denial of the view widely held that, whatever the governments the sovereignty must always remain in the people, the theory of "popular sovereignty. This theory even though can be used to shake the concept of sovereignty put forth, gives rise to the question whether at the end of the day do the governments do what they want internally especially taking into account the concept of capital punishment, which at some point of time seemed to have disappeared but has now began to resurface once again in a way which I believe is the only way for the governments to show the outside world that despite all the current views on sovereignty today they indeed still retain the absolute sovereign power.

The psychological understanding that existed before was that of master servant theory, with regard to the sovereign and its subjects. However today with the introduction of the concept of human rights, people are more aware of their rights and are not about to let things slide, especially when the actions taken are to their detriment. There has been a shift of thought from that of automated obedience to that of taking control and accountability. With such a shift in the society at large the thought of how and who should be the sovereign has changed.

The concept of sovereignty has been shunned upon as constituting dictatorship and over the years we have seen certain prominent leaders vacating their posts of authority because of such thought manifesting itself in the actions of those being led by them. The most recent situation of such a struggle that has come about due to the shift in thought has been in the country of Nepal where they want democracy introduced instead of the monarchy system. Even though the country has not been fully democratized it is on its way to being liberalized from the long standing monarchical rule. The concept has indeed faced challenges over the years due to change in political and social thought.

Sovereignty if allowed to prevail as it was in the yester years gives rise to three dysfunctionalities. First, its external dimension renders inconceivable international law and a world state^{vi}. Second, the internal dimension of sovereignty, the absolute power of the state over the body politic, results in centralism, not pluralism. Third, the supreme power of the sovereign state is contrary to the democratic notion of accountability.^{vii}

Today such an ideology is not tolerated by the people themselves, not only the leaders of the world. This is because the social thought is weaved around the idea of solidarity development of all, marginalization of all into the mainstream and a transparent governing system, be it regionally or internationally. Sovereignty today is different from yesterday's sovereignty because of the difference in political and social thought. However we should not that sovereignty has not disappeared it has however been redirected and does this mean that it has taken a whole new form or the power has just been redirected and is yet to manifest itself. This is because it has always been questioned as either being juridical or non-juridical in form. And we have seen the either way in its pure form its violence and no justice can be attained through such a structure, hence its dilution to suit today's thoughts on law and governance. Sovereignty has become the unsolved problem of modernity^{viii}.

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ENDNOTES

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- ⁱ Charles McIlwain - Sovereignty in the World today www.potowmack.org/mci/wail.html, p. 111
ⁱⁱ *Ibidem*.
ⁱⁱⁱ Sam Adelman - The Problem of Postmodern Sovereignty, 2006, p.2
^{iv} Barrister Harun ur Rashid - Star Law Analysis April 3, 2004; Legal Meaning of Sovereignty, (Jean Bodin 1530-1596) p. 4
^v *Ibid*
^{vi} **Stanford Encyclopedia of Philosophy, Sovereignty**, First published Sat May 31, 2003; substantive revision Wed Jun 18, 2003
^{vii} *Supra*
^{viii} Sam Adelman - The Problem of Postmodern Sovereignty, , 2006, p.5