

## Some thoughts on the "sovereignty" of the "Republic of Kosovo\*"

*"The problem of establishing a perfect civic constitution is dependent upon the problem of a lawful external relation among states and cannot be solved without a solution of the latter problem." - Immanuel Kant(1)*

The most essential problem in an *ad hoc* and, as claimed by the US, a *sui generis* political creation such as the today's self-declared *Republic of Kosovo\*(2)* is its questionable sovereignty, which is, according to traditional points of view, a precondition for the existence of a proper state, which, in turn, provides a legal framework and legitimacy for establishing and managing the state's public policies for the benefit of its citizens.

To paraphrase I. Kant from the above quote, it is problematic for Kosovo to establish "a perfect civic constitution" (understood here in its more expansive meaning as an internal order of the state, not just as the fundamental legal document of a state) because it is dependent on a lawful external relationship of that "state" with other sovereign states.(3)

Kosovo, as constituted today, experiences sovereign ambiguity regardless of the way sovereignty is understood, but especially if it is understood as a concept that is the *sine qua non*(4) of states.(5)

From any good legal dictionary we learn about the essential attributes sovereignty must possess in today's world. For example, Black's Law Dictionary, one of the highest authorities in this field, defines sovereignty as "*Supreme, absolute, and uncontrollable power; supreme political authority; the supreme will; the self-sufficient*

*source of political power from which all specific political powers are derived; the power of regulating [...] internal affairs without foreign dictation."*(6)

As it has already been mentioned, Kosovo's international legal sovereignty is questionable not only because of the lack of mutual recognition by an overwhelming majority of sovereign states in the modern world but as well from the point of view based on the traditional Westphalian understanding of sovereignty, which underlines Kosovo's inability to exclude external actors from authority structures within its own territory. Kosovo's own Constitution nominates external factors, both civilian and military, as "*Final Authority*" within Kosovo.(7)

When Kosovo's domestic sovereignty is taken into consideration, referring to the formal organization of political authority within the state and the ability of those who claim officially to rule Kosovo as a sovereign state to exercise control within it, even the UN (UNMIK), which protectorate Kosovo still officially is, has expressed concerns about its own and Kosovo's "government's" inability to exercise authority in all of Kosovo's claimed territory, especially in the north of the land, controlled by the Serbian population, which considers it part of the Republic of Serbia.(8)

Even the fourth kind of sovereignty(9), the interdependence sovereignty, described as "*the way in which public authorities regulate the flow of people, information, capital and ideas across the borders of the state,*"(10) is questionable and exposed as, at least, limited, if not even non-existent, by the regulations of the UN Security Council Resolution 1244(11), which refers to the Rambouillet Accords(12) to provide immunity for NATO and grant it "*free and unrestricted passage and unimpeded access.*"(13)

#### Sovereignty as a theoretical concept

In political theory there are many meanings of sovereignty - political, legal, internal, external, *de iure*, *de facto*, influential, limited, relative...(14)

Yet, regardless of its theoretical meaning, to possess true sovereignty a state must have a permanent population, a defined territory, a government, and the capacity to enter into diplomatic relations with other sovereign states.(15)

Yet, since 1576, when the term was introduced for the first time,(16) two theories of sovereignty have been dominant - the Classical theory and the Constitutional theory, differing on their approach as to how the concept of sovereignty relates to the authority of the state, although both theories understand unlimited power to be sovereignty's main attribute.(17) The classical theorists believe that state authority is sovereign and thus unlimited, while the constitutionalists believe that state authority is sovereign and final but limited, being vested in the state's constitution created by its people.(18)

The Classical theory describes three main elements of sovereignty: unlimited power, sovereign power as the source of all the rights in the state, and state authority as the bearer of sovereignty (not the people or the constitution).(19)

The Constitutional theory states that sovereignty's source is a legal document, a Constitution, from which state authority draws its power, and that sovereignty is not vested in any will.(20) & (21)

### A Historical Overview

Since the earliest times it has been recognized that there must exist order and sovereign control of a community of people if a civilized human society is to come into being and its functions were to be performed properly. The earliest authors in the Western world have demonstrated the differences between a world organized and ordered according to principles of civilization and the world not developed further from its most primitive and chaotic form. In order to demonstrate this, Homer presents the hearers/readers of his epics *The Iliad* and *The Odyssey* with the description of the land of Cyclops.(22) It is juxtaposed in the epics to the ideal of the orderly and civilized world expressed by the "Great Laerte's son, Ulysses, sage in council", who after receiving wisdom from the goddess Minerva, instructs the

Greeks on the form of government and the benefits of depositing all sovereignty into the hands of one sovereign.(23)

Yet, even that early in human history, a voice arises that expresses the opinion that sovereignty doesn't spring solely from a divine source but from the people too, and that without their consent and cooperation all claims to sovereignty would be empty and meaningless.(24) The greatest ancient philosophers and political thinkers discussed that what today we call sovereignty, although they didn't assign to it all the attributes that the term has in its modern meaning.

Plato proposes the perfect political system in which sovereignty (political power) ought to be exercised only by the individuals who "know the good,"(25) the so-called "philosophers-kings."(26)

Aristotle uses the Greek term "*to kurion*" in place of the modern term "sovereignty" and he doesn't give it the meaning of the supreme constituted authority but the meaning of supremacy in fact only.(27)

Similarly to Aristotle, Thucydides, in his History of the Peloponnesian War, records the prevailing understanding of sovereignty of that age - the eternal law through which might and power give the right to rule and command to their holder(s).(28) This, so-called "Melian Episode", as described by Thucydides, is the first recorded statement of the principle that "Might Is Right"(29), especially when the statement by the Athenians that the "divine is always on the side of the big battalions"(30) is taken into consideration as the justification of that principle.

In the same spirit is one of the shortest definitions of sovereignty, expressed by Carl Schmitt, which very clearly describes its true meaning, leaving no ambiguity about who the true sovereign is—"Sovereign is he who decides on the exceptional case."(31)

With the advance of Christianity, and with its final supremacy, its proponents and ideologist tried, at least theoretically, to amplify the description and definition of sovereignty by adding the element of legitimacy to it, making a distinction

between a truly legitimate sovereign and the one that is sovereign because of his hold on power in the realm. The legitimate sovereign is the one who is the "*divinae maiestatis imago*"(32), while the other is a tyrant, since the legitimate one "strives to achieve obedience to the laws and to preserve the liberty of the people"(33), and the other one "promotes servitude" and is the image of "devilish deprivation."(34)

The Roman Church authorities and its philosophical and political theorists worked very hard over the centuries to establish the belief in the Church's absolute authority and sovereignty(35) over the whole of the world but such notions clashed with both the understanding of sovereignty within the medieval system of vassalage(36) and with the *realpolitik* necessity of monarchs to establish their own absolute sovereignty within their realms.(37)

In the old Roman Empire and in its legal system, the power of the Emperor was understood as bestowed upon him by the citizens of Rome. When the empire converted to Christianity, the power of the head of state was regarded as coming from God.

As the clash between Empire and Church intensified, the Emperors of the Holy Roman Empire recognized the advantages of the old Roman law, with Emperor Frederick I Barbarossa especially using these advantages to increase and strengthen royal absolutism. Its enormous growth and spread into all aspects of life led to the emergence of opposition to this notion and to the appearance of new views and understandings of the concept of sovereignty.(38)

By the close of the so-called middle ages and the beginning of modernity, a variety of philosophers and political theorists produced new ideas about sovereignty, distancing it from the sphere of the Church (regardless of denomination) and placing it, at first in the person of a monarch, and later in the people inhabiting the state, with the element of state always present and essential for the existence and exercise of sovereignty.(39)

Machiavelli was among the first modern thinkers who, in order to somehow curb the power of a multitude of strongmen, experiencing the chaos of Italy of his age, proposed bestowing the supreme and absolute authority in the hands of a monarch.(40)

A French philosopher, Jean Bodin, was very strong in his support and propagation of royal absolutism and sovereign prerogatives of the monarch, allowing him even the right to be "exempt from obedience to the laws of his predecessors... [and even those] issued by himself... Sovereignty rests in being above, beyond or excepted from the law."(41)

Many of the philosophers, abandoning completely the idea of a Church's dominance and sovereignty in the realm of politics, followed in his steps and supported the idea of royal absolutism and total sovereignty of the monarch, including B. de Spinoza(42) and Thomas Hobbes,(43) but Johannes Althusius was the first to present a theory of federal republicanism, placing sovereignty in the hands of the people.(44)

One of the most important religious leaders of the age, Martin Luther, a German Protestant reformer, developed a clear theological argument(45) in support of appropriating the temporal power of the pope and the Roman Church by the princes, prescribing for them the substance of sovereignty without directly discussing it in political terms.(46)

This clash of religious and political ideas and wills was slowly coming to a diplomatic conclusion, first by the 1555 Peace of Augsburg, where sovereign independence was accented by the recognition of the principle "The religion of the realm will be that of its prince" (*Cuius regio, eius religio*), and finally by the 1648 Treaty of Westphalia(47), where the earlier claims and ideals of universal authority of the Church and of the Empire were overthrown and sovereign states were fully recognized in European diplomatic relations, although both the Church(48) and the Empire(49) attempted to restore the old system, cherishing the ideals of the previous age.

As Daniel Philpott stated: "The sovereign states system arrived most commandingly through revolutions. Through two prominent ones in particular. The first is what political scientist John Gerard Ruggie describes as "the most important contextual change in international politics in this millennium"—the shift in Europe from the medieval world to the modern international system, which took full shape at the Peace of Westphalia in 1648.' The system then spread, rapidly expanding across the globe when the colonial empires collapsed after World War II. Colonial independence is the second revolution."(50)

Although it took a few more international treaties (of course, after quite a few destructive and bloody wars) for the system of sovereign statehood to be stabilized, it did, in the end, become the worldwide basis for international diplomatic relations(51) until it was violently disrupted in 1999 by the Kosovo war in the Balkans and the 2008 recognition by many of the great powers of the unilateral declaration of independence by a Muslim Albanian minority within the sovereign state of Serbia.

In spite of many modern voices declaring sovereignty "not a fixed concept"(52), an "anachronistic concept"(53), or, mockingly, "precious"(54), the very recognition of Kosovo's independence and sovereignty by the leading Western states has proven, yet again, the statement by Elihu Burritt that "sovereignty is the immediate jewel of a nation... [It is not only] the great vital right of a state, it is its glory and independence, the most precious thing it has."(55)

#### Kosovo's lack of legitimacy and sovereignty

Max Weber had explained a long while ago that, in order to be legitimate, in a political system, "a criterion of every true relation of imperative control, however, is a certain minimum of voluntary submission."(56) If the three pure types of legitimate domination are taken into consideration in the case of Kosovo, it is possible to claim that the so-called "international community" expects the "rational" type to be its basis for legitimate domination in Kosovo, since "it" has given to "itself" the right to occupy the sovereign territory of an internationally recognized

state of Serbia, and to set up a new order within its sovereign territory, according to "its" vision of a, at least better, if not perfect and ideal state. The Moslem Albanian community in Kosovo bases its legitimacy of domination on the "traditional" character of its status in the Balkans during the half a millennium of Moslem Turkish rule there, which guaranteed the followers of Islam legal, political, economic and social domination over the Christian "infidel" population sharing the land with them. The current political leaders of the Albanians in Kosovo, demand the third type of dominance to be recognized as theirs - the "charismatic" legitimacy of their rule, emanating from their "heroic" fight for "independence and freedom" of the Albanian people in the region.

Another very important detail is the sense of the "bureaucratic administrative framework"(57) that the "international community's" representatives possess in Kosovo, performing their duties and balancing their roles as they implement the policies set by the UN, the US, and the EU, and which are very often contradictory and adversary to each other. That framework not only gives them the strongest sense of power, of belonging to something special and exclusive, and of being above and beyond the rest of the actors in Kosovo(58) (especially when backed up by the NATO troops!), but it also gives them that special sense of being "the one who decides on the exceptional case."(59)

Looking at Kosovo from the prospective of the question of sovereignty, in today's world, Kosovo could be seen as a case *sui generis* only when it comes to the multitude of sovereignties that overlap in its territory. The United Nations Resolution 1244 (which is still in effect and is recognized even by the powers(60) that officially recognized Albanian minority's self-declaration of independence) recognizes the sovereignty of the Republic of Serbia over the territory of Kosovo(61). So does, of course, the Constitution of the Republic of Serbia(62). At the same time, the Serbia's Albanian Moslem minority in the Province of Kosovo and Metohija declared the province's independence from Serbia and claims sovereignty over its territory, calling it the "*Republic of Kosovo\**"(63). It has been officially recognized by the US and many of the individual great powers that are members of



the European Union, although the European Union itself has not recognized the self-declared independent "Republic of Kosovo\*" and works closely with the UN on administering the Serbian province as its protectorate(64). Simultaneously to all this, the Constitution of the self-proclaimed Republic of Kosovo, by its articles 147 and 153, clearly renounces its sovereignty and states that the final authority in Kosovo are the UN civilian administrator and NATO military force commander, making those who command NATO the ultimate sovereigns over Kosovo(65).

### Conclusions

Sovereignty is a "testimony, not of what happened, but of what the people who debated and wrote about it wanted their contemporaries to believe, or wanted to believe themselves."(66)

It is truly a nightmarish task to attempt to come to any rational and logical, legally and scientifically sound conclusion regarding current Kosovo sovereignty status. It is equally daunting to make any political claim, or a claim using arguments of justice, democracy or right of self-determination.

What is clear in the case of Kosovo is that claims to sovereignty there are aplenty – they overlap and contend with each other, negating and denying one another, creating a web of deception and a fertile ground for conflict and disputation.

Yet, the most obvious candidate to receive the crudest and basest title of Kosovo's true sovereign is none of the civilian claimants, domestic or international, but the military alliance known as NATO, that is, the individuals who command it, using the military force on the ground as a clear symbol of its power to decide all the questions relevant to their interests, leaving all other matters unresolved and as its possible maneuvering ground.

## Footnotes:

1 Immanuel Kant, "On History" - Idea for a Universal History from a Cosmopolitan Point of View (1784) - Seventh Thesis; Translation by Lewis White Beck; The Bobbs-Merrill Co., 1963.

2 The agreement for the regional cooperation and representation of Kosovo, of 24 February 2012, signed in the technical dialogue between the "Republic of Kosovo" and Serbia conducted in Brussels with the facilitation of European Union, states that the country will be represented at the regional forums as "Kosovo\*" - UNMIK-Division of Public Information; Media Monitoring Headlines; March 16, 2012 - [www.unmikonline.org](http://www.unmikonline.org)

3 By April 8, 2012, recognized by 88 out of 193 United Nations members [plus The Republic of China (Taiwan), who is not a UN member; Kosovo hasn't reciprocated the recognition since it is hoping for recognition by the People's Republic of China]; Source: Official Kosovo Government website: <http://www.president-ksgov.net/?page=2,54>

4 "something absolutely indispensable or essential" - <http://www.merriam-webster.com/dictionary/sine%20qua%20non>

5 Sovereignty - God, State, and Self; The Gifford Lectures; Jean Bethke Elshtain; Basic Books; 2008; page 2.

6 Black's Law Dictionary; 8th edition; 2004; page 1430.

7 Articles 147 and 153 of Kosovo's Constitution.

8 <http://www.crisisgroup.org/en/regions/europe/balkans/kosovo/211-north-kosovo-dual-sovereignty-in-practice.aspx> &  
<http://www.globalsecurity.org/military/library/news/2010/04/mil-100407-voa02.htm>

9 The four kinds of sovereignty as described by by Stephen D. Krasner in his book *Sovereignty: Organized Hypocrisy*; Princeton University Press - 1999 - p. 4-5.

10 Ibidem

11 UN Security Council Resolution 1244 (1999); Article 11, sections *a* and *i*.

12 <http://jurist.law.pitt.edu/ramb.htm>

13 Interim Agreement for Peace and Self-Government In Kosovo; Rambouillet, France; February 23, 1999; Appendix B, Sections 6 (*a, b, c*), 7, 8, 16 and 17.

14 Stankiewicz, W. J., (1976), "Sovereignty as Political Theory," in: *Political Studies*, Volume XXIV, No. 2, Oxford: Clarendon Press, p. 141, and Heywood, Andrew, (1994), *Political Ideas and Concepts: An Introduction*; London: Macmillian Press, p. 49-56.

15 The Montevideo Convention on the Rights and Duties of States (signed 26 December 1933); M. O. Hudson (ed.); *International Legislation*; Carnegie Endowment; Washington; 1931-50; Vol 6, p. 620.

16 Jean Bodin; *Six Books on Commonweale*.

17 Heywood, Andrew, (1994), Political Ideas and Concepts: An Introduction; London: Macmillian Press, p. 49-53.

18 ibidem.

19 ibidem.

20 ibidem.

21 Also pointed out by Hannah Ardent in her book On Revolution (London, Harmondsworth, 1973, p. 141-178). Also, in her work, Between Past and Future (Page 97. New York, 1961) she points out the problem that modern Liberalism derives from this anti-dogmatic standpoint Since it opposes the superiority of any divinely founded authority over any earthly legitimate power, it has to admit that if there is no authority prior to the power of the earthly authority of the existing political and legal order, there is no possibility that liberal monism can prevent the risk of arbitrary and unrestrained might.

22 "The land of Cyclops first, a savage kind, Nor tamed by manners, nor by laws confined: Untaught to plant, to turn the glebe, and sow, They all their products to free nature owe: The soil, untill'd, a ready harvest yields, With wheat and barley wave the golden fields; Spontaneous wines from weighty clusters pour, And Jove descends in each prolific shower, By these no statues and no rights are known, No council held, no monarch fills the throne; But high on hills, or airy cliffs, they dwell, Or deep in caves whose entrance leads to hell. Each rules his race, his neighbour not his care, Heedless of others, to his own severe." - The Odyssey; Homer; Translation by Alexander Pope; Digital book location - 347-50.

23 "Good friend, keep still, and hear what others say, Thy betters far: for thou art good for nought, Of small account in council or in fight. All are not sovereigns here: ill fares the state Where many masters rule; let one be Lord, One King supreme; to whom wise Saturn's son In token of his sov'reign power hath giv'n The sceptre's sway and ministry of law.' Such were his words, as through the ranks he pass'd..." - The Iliad; Homer; Translation by Alexander Pope; Digital book location 352-53.

24 "Thersites, with unmeasur'd words, Of which he had good store, to rate the chiefs, Not over-seemly, but wherewith he thought To move the crowd to laughter, brawl'd aloud. The ugliest man was he who came to Troy" [...] With scurril words, he thus address'd the King: "What more, thou son of Atreus, would'st thou have? Thy tents are full of brass; and in those tents Many fair women, whom, from all the spoil, We Greeks, whene'er some wealthy town we take, Choose first of all, and set apart for thee. Or dost thou thirst for gold, which here perchance Some Trojan brings, the ransom of his son Captur'd by me, or by some other Greek? Or some new girl, to gratify thy lust, Kept for thyself apart? a leader, thou Shouldst not to evil lead the sons of Greece. Ye slaves! ye coward souls! Women of Greece! I will not call you men! why go we not Home with our ships, and leave this mighty chief To gloat upon his treasures, and find out Whether in truth he need our aid, or no;"" - The Iliad; Homer; Translation by Alexander Pope; Digital book location 355-60.

25 Ryan K. Balot and Zena Hitz ; A Companion to Greek and Roman Political Thought - Chapter 24 - Plato on the Sovereignty of Law - Published Online April 24, 2009.

<sup>26</sup> Plato; Republic; p. 506.

27 Hermann Rehm, History of the State Law (Geschichte der Staat Rechtswissenschaft); pp. 95-96.

28 "... of the gods we hold the belief, and of men we know, that by a necessity of their nature wherever they have power they always rule [...] we neither enacted this law nor when it was enacted were the first to use it, but found it in existence and expect to leave it in existence for all time, so we make use of it, well aware that both you and others, if clothed with the same power as we are, would do the same thing." - Thucydides; History of the Peloponnesian War; Book V, page 105.

29 Werner Jaeger; Paideia: The Ideals of Greek Culture, Book I, trans. by Gilbert Highet, pp. 292-303.

30 Thucydides; History of the Peloponnesian War; Book V, page 105.

31 Carl Schmitt - Political Theology - four chapters on the concept of sovereignty; Cambridge, Mass: MIT Press, 1985; page 5.

32 John of Salisbury; Polycraticus (Ioannes Saresberiensis; Policraticus); Libri I, IV and VIII.

33 Ibidem.

34 Ibid.

35 "Romana ecclesia... cuius auctoritate maius non est... Sola enim Romana ecclesia sua auctoritate valet de omnibus iudicare; de ea vero nulli iudicare permittitur" - Gratian; Decretum magistri Gratiani; Liber 9, C. 9-10 and Q. 3.

36 "In France of the thirteenth century the king had the sovereignty over his kingdom, but so had every individual baron over his barony." ("Car chascuns barons est souverains en sa baronie") - Beaumanoir; Customs of Beauvaisis; Book II; A.D. 1043; p. 23.

37 "The French monarch doesn't acknowledge any superior in temporal affairs" - Pope Innocent III (1198-1216); Decretal: Venerabilem.

38 K. Pennington; The Prince and the Law, 1200-1600; University of California Press; Berkeley, 1993; p. 12.

39 Only in the relatively recent times has the lack of statehood been accepted as a non-essential element for the recognition of sovereignty, and only in international relations. An example is the Sovereign Military Hospitaller Order of St. John of Jerusalem of Rhodes and of Malta, since 1834 headquartered in Rome. Although it is a Roman Catholic religious order, it is recognized as possessing sovereignty by 104 states that have official diplomatic relations with it, accepting the Order's Head as a sovereign head of state with the title of Prince and Grand Master. The Order has not recognized Kosovo as a sovereign state as of November 15, 2010 - <http://www.orderofmalta.org/the-order-and-its-institutions/335/government/?lang=en>

40 "The only way to establish any kind of order... is to establish some superior power which, with a royal hand, and with full and absolute powers, may put a curb upon the excessive ambition and corruption of the powerful." - N. Machiavelli (1469-1527); 1532; The Prince and the Discourses, New York, NY; The Modern Library, 1950; p.28.

41 Jean Bodin; On Sovereignty; Cambridge University Press; 2004; pp. 2, 12, 39.

42 "Only the bearer of all powers, not of the highest power [summa potestas], is in fact true sovereign." - B. Spinoza; Tractatus Theologico-politicus; XVI, 2; XVI, 20.

43 For Hobbes, life, in the absence of order and absolutist rule, is "solitary, poor, nasty, brutish and short" - Hobbes, Thomas; Leviathan; Cambridge University Press; 1999.

44 Johannes Althusius; Politica; Frederick Smith Carney (Editor); Liberty Fund; 1997.

45 Martin Luther; (1523); Temporal Authority: To What Extent It Should Be Obeyed; Westminster Press; 1967.

46 "By the destruction of the independence of the Church and its hold on an extra-territorial public opinion, the last obstacle to unity within the State was removed," - J. N. Figgis; (1907); From Gerson to Grotius 1414-1625; 2nd edition; reprinted; Cambridge, UK; Cambridge University Press, 1916; pp. 72, 91.

47 "Westphalia [the beginning of a codification of the greatest secular right on earth] remains the most significant revolution in sovereignty to date." - Daniel Philpott; Revolutions in Sovereignty; 2002; p. 32.

48 Pope Innocent X (r. 1644-1655) declared it "null, void, invalid, iniquitous, unjust, damnable, reprobate, inane, and devoid of meaning for all time"

49 Until the end of the Austrian Empire, the Habsburgs, who provided most of the Emperors of the Holy Roman Empire, continued to work on the fulfillment of the imperial goal set by one of their ancestors: " [The Emperor Frederic (father of Emperor Maximilian), in the middle of 15<sup>th</sup> century,] seems to have anticipated the future greatness of Austria; for he had imprinted upon all his books, engraved upon his plate and carved into the walls of his palace a mysterious species of anagram composed of the five vowels, A, E, I, O, U. The significance of this great secret no one could obtain from him. It of course excited great curiosity, as it everywhere met the eye of the public. After his death the riddle was solved by finding among his papers the following interpretation-- *Austri Est Imperare Orbi Universo* = Austria Is To Govern The World Universal." - John Stevens Cabot Abbott; The Empire of Austria; Its Rise and Present Power; Loc. 976-80.

50 Daniel Philpott; Revolutions in Sovereignty: How Ideas Shaped Modern International Relations; Loc. 67-71.

51 "In early modern Europe, it was the Protestant Reformation that brought a century of war, culminating in the Thirty Years' War (1618-1648), which in turn brought about a system of sovereign states. In the twentieth century, it was nationalism and racial equality that brought the revolts, protests, and colonial wars that extended the system globally. For both revolutions, international agreement upon sovereign statehood was the terms on which a crisis of pluralism was settled." - Daniel Philpott; Revolutions in Sovereignty: How Ideas Shaped Modern International Relations; Loc. 77-80.

52 "Opponents of integration often attack such proposals as threats to national sovereignty. Sovereignty, however, **is not a fixed concept.**" - Robert Pastor, North America's Second Decade; Foreign Affairs (January/February 2004)-  
<http://www.foreignaffairs.com/articles/59538/robert-a-pastor/north-americas-second-decade>

53 "Sovereignty is an ***anachronistic concept*** originating in bygone times when society consisted of rulers and subjects, not citizens. It became the cornerstone of international relations with the Treaty of Westphalia in 1648. During the French Revolution, the king was overthrown and the people assumed sovereignty. But a nationalist concept of sovereignty soon superseded the dynastic version. Today, though not all nation states are democratically accountable to their citizens, the principle of sovereignty stands in the way of outside intervention in the internal affairs of nation states. But true sovereignty belongs to the people, who in turn delegate it to their governments. If governments abuse the authority entrusted to them and citizens have no opportunity to correct such abuses, outside interference is justified. By specifying that sovereignty is based on the people, the international community can penetrate nation states' borders to protect the rights of citizens." - George Soros; *The People's Sovereignty, How a new twist on an old idea can protect the world's most vulnerable populations*; Foreign Policy magazine; Jan. 1, 2004. & Marino Busdachin; General Secretary of the Unrepresented Nations and Peoples Organization (UNPO); To the European Parliament in Brussels, Belgium; December, 2006 - <http://www.americansov.org>

54 "A system of world order--preferably a system of world government --is mandatory... The proud nations someday will see the light and, for the common good and their own survival, yield up their ***precious*** sovereignty..." - Walter Cronkite; *A Reporter's Life* - <http://www.canadafreepress.com/2007/deweese011107.htm><http://www.canadafreepress.com/2007/deweese011107.htm>

55 Elihu Burritt, *Thoughts and Notes at Home and Abroad*, 1868, p. 266.

56 Max Weber, *The Theory of Social and Economic Organization*; III. The Types of Authority and Imperative Co-ordination; I. The Basis of Legitimacy; I. The Definition, Conditions, and Types of Imperative Control; Trans. A.M. Henderson and Talcott Parsons. New York: Free Press, 1997. Pages 324-329.

57 *ibid.* - page 175.

58 As Max Weber points out, they feel personally free, feeling obligations only to their official charges; as part of a very strict administrative hierarchy; that they have very clearly defined domains; that it is their main job and obligation; that they will be judged by their superiors according to the performance and execution of that charge; and that they must follow the strict internal administrative discipline. - Max Weber; *Economía y sociedad - Esbozo de sociología comprensiva*; Edición preparada por Johannes Winckelmann; Fondo de Cultura Económica; México; p. 176.

59 "Sovereign is he who decides on the exceptional case." - Carl Schmitt; *Political Theology - four chapters on the concept of sovereignty*; Cambridge, Mass: MIT Press, 1985; page 5.

60 Even if they "creatively interpret the UN SC Resolution 1244", knowing fully, as Carl Bildt, Sweden's Foreign Minister, stated, that "there are no legal grounds for doing what we are doing, but we must preserve at least a semblance of international law." - <http://www.kosovocompromise.com/cms/item/charts/en.html?id=478>

61 Resolution 1244 (1999), adopted by the Security Council at its 4011th meeting, on 10 June 1999: "... Reaffirming the commitment of all Member States to the sovereignty and

territorial integrity of the Federal Republic of Yugoslavia and the other States of the region, as set out in the Helsinki Final Act and annex 2..."

62 The Constitution of the Republic of Serbia, The Preamble: "... the Province of Kosovo and Metohija is an integral part of the territory of Serbia..."

63 see footnote # 2

64 Resolution 1244 (1999), adopted by the Security Council at its 4011th meeting, on 10 June 1999, authorizes the Secretary-General, with the assistance of relevant international organizations, "to establish an international civil presence in Kosovo" and "decides on the deployment in Kosovo, under United Nations auspices, of international civil and security presences, with appropriate equipment and personnel as required...", "requests the Secretary-General to appoint, in consultation with the Security Council, a Special Representative to control the implementation of the international civil presence, and further requests the Secretary-General to instruct his Special Representative to coordinate closely with the international security presence to ensure that both presences operate towards the same goals and in a mutually supportive manner..."

65 The Constitution of the Republic of Kosovo; Article 147 [Final Authority of the International Civilian Representative]: "Notwithstanding any provision of this Constitution, the International Civilian Representative shall, in accordance with the Comprehensive Proposal for the Kosovo Status Settlement dated 26 March 2007, be the final authority in Kosovo...", and Article 153 [International Military Presence]: "Notwithstanding any provision of this Constitution [...] The Head of the International Military Presence shall, in accordance with the Comprehensive Proposal for the Kosovo Status Settlement dated 26 March 2007, be the final authority in theatre..."

66 Robin G. Collingwood (1889-1943); *The Map of Knowledge*; Oxford; 1924; page 237.

## Bibliography:

Abbott, John Stevens Cabot; *The Empire of Austria; Its Rise and Present Power*.

Althusius, Johannes; *Politica*; Frederick Smith Carney (Editor); Liberty Fund; 1997

Ardent, Hannah; *On Revolution*; London, Harmondsworth, 1973

Balo, Ryan K.t and Hitz, Zena; *A Companion to Greek and Roman Political Thought - Chapter 24 - Plato on the Sovereignty of Law - Published Online April 24, 2009*.

Beaumanoir; *Customs of Beauvaisis; Book II*

*Black's Law Dictionary*; 8th edition; 2004

Bodin, Jean; *On Sovereignty*; Cambridge University Press; 2004

Bodin, Jean; *Six Books on Commonweale*

Burritt, Elihu; *Thoughts and Notes at Home and Abroad*; 1868

Carl Schmitt, Carl; Political Theology - four chapters on the concept of sovereignty; Cambridge, Mass: MIT Press, 1985

Collingwood, Robin G.; The Map of Knowledge; Oxford;1924

Constitution of the Republic of Kosovo

Elshtain, Jean Bethke; Sovereignty - God, State, and Self; The Gifford Lectures; Basic Books; 2008

Figgis, J. N.; (1907); From Gerson to Grotius 1414–1625; 2nd edition; reprinted; Cambridge, UK; Cambridge University Press, 1916

Gratian; Decretum magistri Gratiani; Liber 9

Heywood, Andrew, (1994), Political Ideas and Concepts: An Introduction; London: Macmillian Press

Hobbes, Thomas; Leviathan; Cambridge University Press; 1999 Homer; The Iliad; Translation by Alexander Pope; Digital book

Interim Agreement for Peace and Self-Government In Kosovo; Rambouillet, France; February 23, 1999

Jaeger, Werner; Paideia: The Ideals of Greek Culture, Book I, trans. by Gilbert Highet

John of Salisbury; Polycraticus (Ioannes Saresberiensis; Policraticus); Libri I, IV and VIII.

Kant, Immanuel; On History - Idea for a Universal History from a Cosmopolitan Point of View (1784); Translation by Lewis White Beck; The Bobbs-Merrill Co., 1963.

Kant, Immanuel; Perpetual Peace; Translated by Lewis White Beck

Krasner, D.; Sovereignty: Organized Hypocrisy; Princeton University Press - 1999

Luther, Martin; (1523); Temporal Authority: To What Extent It Should Be Obeyed; Westminster Press; 1967

Machiavelli, N.; (1469-1527); 1532; The Prince and the Discourses, New York, NY; The Modern Library, 1950

Pennington, K.; The Prince and the Law, 1200-1600; University of California Press; Berkeley, 1993

Philpott, Daniel; Revolutions in Sovereignty; 2002

Plato; Republic

Pope Innocent III (1198-1216); Decretal: Venerabilem.



Rehm, Hermann; History of the State Law (Geschichte der Staat Rechtswissenschaft)

Spinoza, B.; Tractatus Theologico-politicus; XVI

Stankiewicz, W. J., (1976), "Sovereignty as Political Theory," in: Political Studies, Volume XXIV, No. 2, Oxford: Clarendon Press

The Montevideo Convention on the Rights and Duties of States (signed 26 December 1933); M. O. Hudson (ed.); International Legislation; Carnegie Endowment; Washington; 1931-50; Vol 6

Thucydides; History of the Peloponnesian War; Book V

UN Security Council Resolution 1244 (1999)

Weber, Max; Economía y sociedad - Esbozo de sociología comprensiva; Edición preparada por Johannes Winckelmann; Fondo de Cultura Económica; México