ROUTLEDGE INNOVATIONS IN POLITICAL THEORY

# Popular Sovereignty in the West

## Polities, contention, and ideas

Geneviève Nootens

# Popular Sovereignty in the West

This book is an inquiry into the history of the idea of popular sovereignty as it has been shaped by the struggles between rulers and ruled. It builds on the notion that a thorough analysis of how the idea of popular sovereignty emerges from, and interacts with, a political history of contention within changing polities can help us to draw similarities and differences with our own age.

Providing a historical perspective to the present day, Nootens pays strong attention to the role of democratization processes and to the relationship between meanings conveyed by the idea of popular sovereignty, political contention, and changing representations of the governing relationship. The latter has been undergoing significant transformations in the last decades, and these transformations impact significantly upon people's rights, interests, wealth, and capacity to decide for themselves. In order to understand popular sovereignty in an era of globalization, this book argues that focus should be put on current struggles between rulers and ruled, as well as on current transformations of the relationship between public and private spheres. Understanding the claims involved in current processes of contention over decision-making processes is key to understanding popular sovereignty in an era of globalization.

Making an important contribution to debates on sovereignty, *Popular Sovereignty in the West* will be of interest to students and scholars of modern political theory, sovereignty, and democratization studies.

**Geneviève Nootens** is Professor of political science at Université du Québec à Chicoutimi, Canada.

## Routledge innovations in political theory

1 **A Radical Green Political Theory**
*Alan Carter*

2 **Rational Woman**
A feminist critique of dualism
*Raia Prokhovnik*

3 **Rethinking State Theory**
*Mark J. Smith*

4 **Gramsci and Contemporary Politics**
Beyond pessimism of the intellect
*Anne Showstack Sassoon*

5 **Post-Ecologist Politics**
Social theory and the abdication of the ecologist paradigm
*Ingolfur Blühdorn*

6 **Ecological Relations**
*Susan Board*

7 **The Political Theory of Global Citizenship**
*April Carter*

8 **Democracy and National Pluralism**
*Edited by Ferran Requejo*

9 **Civil Society and Democratic Theory**
Alternative voices
*Gideon Baker*

10 **Ethics and Politics in Contemporary Theory**
Between critical theory and post-Marxism
*Mark Devenney*

11 **Citizenship and Identity**
Towards a new republic
*John Schwarzmantel*

12 **Multiculturalism, Identity and Rights**
*Edited by Bruce Haddock and Peter Sutch*

13 **Political Theory of Global Justice**
A cosmopolitan case for the world state
*Luis Cabrera*

14 **Democracy, Nationalism and Multiculturalism**
*Edited by Ramón Maiz and Ferrán Requejo*

15 **Political Reconciliation**
*Andrew Schaap*

16 **National Cultural Autonomy and Its Contemporary Critics**
*Edited by Ephraim Nimni*

17 **Power and Politics in Poststructuralist Thought**
New theories of the political
*Saul Newman*

18 **Capabilities Equality**
Basic issues and problems
*Edited by Alexander Kaufman*

19 **Morality and Nationalism**
*Catherine Frost*

20 **Principles and Political Order**
The challenge of diversity
*Edited by Bruce Haddock, Peri Roberts and Peter Sutch*

21 **European Integration and the Nationalities Question**
*Edited by John McGarry and Michael Keating*

22 **Deliberation, Social Choice and Absolutist Democracy**
*David van Mill*

23 **Sexual Justice/Cultural Justice**
Critical perspectives in political theory and practice
*Edited by Barbara Arneil, Monique Deveaux, Rita Dhamoon and Avigail Eisenberg*

24 **The International Political Thought of Carl Schmitt**
Terror, liberal war and the crisis of global order
*Edited by Louiza Odysseos and Fabio Petito*

25 **In Defense of Human Rights**
A non-religious grounding in a pluralistic world
*Ari Kohen*

26 **Logics of Critical Explanation in Social and Political Theory**
*Jason Glynos and David Howarth*

27 **Political Constructivism**
*Peri Roberts*

28 **The New Politics of Masculinity**
Men, power and resistance
*Fidelma Ashe*

29 **Citizens and the State**
Attitudes in Western Europe and East and Southeast Asia
*Takashi Inoguchi and Jean Blondel*

30 **Political Language and Metaphor**
Interpreting and changing the world
*Edited by Terrell Carver and Jernej Pikalo*

31 **Political Pluralism and the State**
Beyond sovereignty
*Marcel Wissenburg*

32 **Political Evil in a Global Age**
Hannah Arendt and international theory
*Patrick Hayden*

33 **Gramsci and Global Politics**
Hegemony and resistance
*Edited by Mark McNally and John Schwarzmantel*

34 **Democracy and Pluralism**
The political thought of William E. Connolly
*Edited by Alan Finlayson*

35 **Multiculturalism and Moral Conflict**
*Edited by Maria Dimova-Cookson and Peter M.R. Stirk*

36 **John Stuart Mill – Thought and Influence**
The saint of rationalism
*Edited by Georgios Varouxakis and Paul Kelly*

37 **Rethinking Gramsci**
*Edited by Marcus E. Green*

38 **Autonomy and Identity**
The politics of who we are
*Ros Hague*

39 **Dialectics and Contemporary Politics**
Critique and transformation from Hegel through post-Marxism
*John Grant*

40 **Liberal Democracy as the End of History**
Fukuyama and postmodern challenges
*Chris Hughes*

41 **Deleuze and World Politics**
Alter-globalizations and nomad science
*Peter Lenco*

42 **Utopian Politics**
Citizenship and practice
*Rhiannon Firth*

43 **Kant and International Relations Theory**
Cosmopolitan community building
*Dora Ion*

44 **Ethnic Diversity and the Nation State**
National cultural autonomy revisited
*David J. Smith and John Hiden*

45 **Tensions of Modernity**
Las Casas and his legacy in the French Enlightenment
*Daniel R. Brunstetter*

**46 Honor: A Phenomenology**
*Robert L. Oprisko*

**47 Critical Theory and Democracy**
Essays in honour of Andrew Arato
*Edited by Enrique Peruzzotti and Martín Plot*

**48 Sophocles and the Politics of Tragedy**
Cities and transcendence
*Jonathan N. Badger*

**49 Isaiah Berlin and the Politics of Freedom**
'Two concepts of liberty' 50 years later
*Edited by Bruce Baum and Robert Nichols*

**50 Popular Sovereignty in the West**
Polities, contention, and ideas
*Geneviève Nootens*

**This page intentionally left blank**

# Popular Sovereignty in the West

## Polities, contention, and ideas

**Geneviève Nootens**

Routledge
Taylor & Francis Group
LONDON AND NEW YORK

First published 2013
by Routledge
2 Park Square, Milton Park, Abingdon, Oxon OX14 4RN

Simultaneously published in the USA and Canada
by Routledge
711 Third Avenue, New York, NY 10017

*Routledge is an imprint of the Taylor & Francis Group, an informa business*



*British Library Cataloguing in Publication Data*
A catalogue record for this book is available from the British Library

*Library of Congress Cataloging-in-Publication Data*
Nootens, Geneviève, author.
Popular sovereignty in the West : polities, contention, and ideas / Geneviève Nootens.
pages cm. – (Routledge innovations in political theory)
Includes bibliographical references and index.
1. Sovereignty. 2. Democratization. 3. Politics, Practical. I. Title.
JC327.N665 2013
320.1'5091821–dc23 2012041260

ISBN: 978-0-415-64357-3 (hbk)
ISBN: 978-0-203-53888-3 (ebk)

Typeset in Times New Roman
by Wearset Ltd, Boldon, Tyne and Wear

# Contents

# Acknowledgments

The author would like to thank the Canada Research Chair Program for the funding that has made possible the research work on which this book builds. She also wishes to thank her colleagues from the Research Group on Plurinational Societies, as well as Professor Gérard Bouchard. Their trust, support, and advice are invaluable.

**This page intentionally left blank**

# Introduction

This book is not firstly intended to be a work of political philosophy. It is first and foremost concerned with political ideas, and with the social and political contexts that frame and accompany debates on the political. This is not to say that no normative issue related to the justification of how public institutions are organized will be raised; we should be very much concerned with, for example, the lack of public accountability conveyed by many of the processes related to globalization and with the gap between decision-making and the possibility for individuals and people to have a say on significant domains of their lives. I am also deeply convinced that democracy requires, as T. Pogge has it, the equalization and maximization of citizens' abilities to shape the social context in which they live, and that as citizens of the world and human beings, we have a duty to build political institutions and processes that approximate this ideal (Pogge 1997). However, this book's main task is to inquire into the history of an idea – popular sovereignty – as it has been conveyed, developed, and transformed through the struggles between rulers and ruled. The idea of popular sovereignty has been shaped by such struggles, in the course of which people often did not have in mind grand ideals such as democracy, but rather the defense of specific rights and interests and, more generally, the need to protect themselves against oppression by rulers and their intermediaries. Let us think of, for example, people's reaction to pressures upon land and commons in the eleventh and twelfth centuries; late Middle Age Italian cities struggling against the emperor and the Papacy to defend their autonomy; conciliarism as a response to grown centralization in the Church; the Huguenots opposing the French monarchy; significant groups of the English Civil War, such as the Levellers; struggles for the legalization of unions in the late nineteenth century; the many 'Occupy' movements that have surged lately. Some of these actually lead to the development of discourses and theories putting forward normative principles that have played a significant part in liberal democratic regimes – self-rule, equality, and

the like. But such discourses have roots in concrete settings and contexts in which people feel a pressing need to defend their immediate interests against rulers and elites.

The elaboration of normative justifications of the idea that 'the people rule' interact with such struggles, so that they both build on them and influence them. They help to articulate why we should defend the capacity of the people to rule for themselves, to strive for self-determination, and to play an active role in legislation. They do a significant job in clarifying the different ways such a principle can be justified, and the relative merits of different arguments. They also provide justifications as to why the people's rule is to be constrained by norms and principles protecting basic rights and the dignity of each person. Still, such normative justifications are embedded in contexts marked by tensions, claims, and struggles as to who should take part in government and through which mechanisms, how regimes are to be organized, how the boundaries between public and private matters are to be defined, and, ultimately, how and why shall rulers be responsive and accountable to the ruled. A great deal of those tensions, claims, and struggles bear on material resources, and on how they are to be extracted and distributed. Bodin's, Hobbes's, Rousseau's, Locke's, or Habermas's contributions to the framing of the modern idea of sovereignty cannot be understood apart from the main trends, conflicts, and debates of their times. Ideas are shaped by such trends, conflicts, and debates; and as they are developed, discussed, and spread, they also, in return, contribute to design and sustain – or undermine – the overarching regime that frames the adjudication of conflicting claims within a polity.

This book rests upon the idea that such settings, contexts, and struggles have played, and still do play, a major part in the historical paths of the idea of popular sovereignty, and that abstract normative theorizing would benefit from rendering more explicit the significance of contention in the development of such an idea. It builds upon the assumption that a thorough analysis of how ideas emerge from, and relate with, such a political history of contention can help us to draw similarities and differences with our own age. Basically, popular sovereignty has been shaped by struggles between rulers and ruled in the course of which ordinary people – sometimes in class coalitions with elites – have tried to protect what they consider to be their basic interests. Meanings conveyed by the idea of popular sovereignty were, and still are, shaped both by the political struggles opposing rulers and the people – and sometimes, rulers themselves – and by changing representations of the nature, role, and functions of the polity – changes that relate to wider social, cultural, and economic processes and trends. Popular sovereignty takes shape in those processes in the course of which people challenge the scope and nature of the governing relationship

between powerholders and stakeholders. It is through mobilization and contention that, in the West, the idea of popular sovereignty came to be closely associated with democracy and the idea that the people rule. It seems quite appropriate and relevant, therefore, to hypothesize that in the current context, understanding the future paths of popular sovereignty depends upon identifying the relevant governing relationships – some of which do not anymore conform to the nation-state model, nor to the nineteenth and twentieth centuries' liberal view of the international society – and the types of contentious politics that address such relationships. Chapter 7 suggests a perspective from which such challenges may be tackled.

Let me stress once again that I do not mean to say that normative theorizing, ideas, and principles are not important. They surely are; the notion of individual rights, for example, is a significant contribution to the formalization of the conditions of equal dignity and its respect, and surely democracy as a regulative ideal embodying self-rule and equality plays a significant normative role. Yet, if the argument developed in this book is sound, to have a more precise idea of what popular sovereignty is going to look like in the forthcoming decades, we need to focus on current struggles between rulers and ruled, as well as on current transformations of the relationship between public and private spheres. Contexts, social representations, and power relationships are changing. To merely extrapolate the future paths of popular sovereignty (and of democracy) starting from a normative theorizing rooted in the liberal democratic state of the twentieth century will hardly do, since it may distort our understanding of some current processes, and conceal how and why 'ordinary people' are party to new governing relationships, as well as the nature of these relationships. Actually, understanding and theorizing the nature of governing relationships is precisely what we need, if people really are to have a say in public politics.

This book focuses explicitly on the history of the idea of popular sovereignty in the *West*, and follows its paths up to the nineteenth- and twentieth-century processes of democratization in liberal states. Several reasons support such a choice. One relates to the subject matter itself: the idea of popular sovereignty has a long history in the West, and its current meanings and impact could hardly be understood without an investigation into such a history. That does not mean that there do not exist other traditions, societies, and cultures in which representations of the ruling relationship incorporate the idea that somehow people are to have a say and to be part of the making of public politics. As Sen has powerfully argued, democracy has global roots, and freedom was not invented in the West (Sen 1999, 2003). However, the fact that there may be other ways of

relating people's consent to the ruling relationship – ways that may be, in some respect, very similar to how the idea developed and was embodied in the West – does not downplay the significance of the Western experience in that domain.

There have been, in late Western political theory, ways of interpreting popular sovereignty that intend to depart markedly from the meanings it had in dominant views, particularly of a liberal brand. Significant views have been developed by people working from the perspective of gender studies, of post-colonial ones, and of a genealogical approach *à la* Foucault. The works of J. Tully (2008), W. Connolly (2004), and R. Prokhovnik (2007), for example, illustrate the fruitful prospects of perspectives challenging the dominant trend of liberal democratic theory. The current book, although recognizing the significance of 'thinking and acting differently' (to paraphrase the title of an essay by Tully), intends to contribute to an 'internal critique' of liberal democratic theory, and particularly of its very much implicit reliance upon the modern territorial state. Such reliance tends to make liberal democratic theory blind at once to its own contingency and to the significance of the empirical processes that actually nationalized and democratized liberal states. It also may distort its analysis of the actual possibilities and paths of democratization at supra- and trans-state levels. The significance of liberal democratic theory, as well as its scope and impact, justifies having a closer look at such flaws from a point of view anchored in its own development and that may impact on its own justificatory framework. As to a broader theorization of 'sites of struggles', however, I wish to leave the options as open as possible – although I of course acknowledge that any such interpretation of social processes depends upon a larger ontological and epistemological framework.

The fact that in the West popular sovereignty has come to be embodied in a liberal democratic conception of the people's rule does not mean that other approaches and perspectives could not have provided for different, and eventually more 'emancipative' – whatever this may mean – views of the people's political power, consent, and participation to rule. Yet, it is also very much obvious that up to now, people have fared much better under democratic regimes than under non-democratic ones. As C. Tilly has stressed, democracy is more beneficial to ordinary people than other kinds of regimes, amongst other things because it provides for a more extensive redistribution of resources and creates systems of extraction and allocation that are more responsive to popular control (Tilly 2007: 117).

Finally, let me stress that the proposed interpretation of the history of the idea of popular sovereignty is not intended to suggest that there is any teleology involved, in the paths that led from the Roman notion of *lex*

*regia* to the idea that the people actually rule. In other words – and notwithstanding the fact that people do fare better under democratic regimes – I do not mean to argue that there has been a gradual and progressive development that would have led to some kind of universal emancipation embodied by contemporary liberal democracy – although liberal rights are, from my point of view, a significant achievement with regards to the realization of individuals' equal dignity. The idea of popular sovereignty has conveyed different meanings, historically, ranging from the notion that the people have somehow consented to be ruled but by the same act have alienated their power to do so, to the one that law is legitimate insofar as it is the product of the people's decision-making – namely, democratic self-rule.

The history of popular sovereignty is at once the history of an idea and the history of significant struggles between rulers and ruled in the course of which ordinary people try to protect what they see as their basic interests. It is precisely that intercourse that is the main concern of this book. Such an investigation makes it very clear that in order to understand popular sovereignty in an era of globalization, we have to look to current struggles between rulers and ruled, as well as to current transformations of the relationship between public and private spheres. This is why the book's main focus is not normative models of democracy, although it is to correlate with a number of normative claims. I do not want to start with a peculiar justification of popular sovereignty and then propose ways of institutionalizing popular control and participation on processes of decision-making that would require current processes of contention to conform with popular sovereignty as it was embodied in the modern nation-state. Rather, I insist that we should get a clearer view of the claims involved in current processes of contention over decision-making processes. In terms of democratic political theory, hence, I suggest focusing much more on processes of democratization than political theory usually does. Lessons are to be drawn from historical paths that emphasize the significance of contentious politics, and particularly the struggles opposing 'ordinary' people to elites and rulers as well as the issue of the loci of decision-making. The different meanings of popular sovereignty – that invariably involve the nature of the governing relationship and the issue of ultimate authority – depend upon different configurations of the relationships between beliefs concerning the source of political authority, arguments about the way(s) such an authority is to be exercised, and representations of the nature of the polity.

The first two chapters of the book are devoted to the history of the idea of popular sovereignty up to the seventeenth century. Chapter 1 focuses on how the notion of popular sovereignty appeared and was revisited, from

the Middle Ages to the early modern period. It emphasizes the main ideas involved in discourses and debates on the people's public power during that period. Beginning with medieval references to the Roman notion of *lex regia*, it ends with Locke's argument about the consent of the general community as composed of individuals endowed with natural rights. During this period, the idea of popular sovereignty was deeply transformed by political, social, and economic processes: from the idea that the people must have somehow consented to the authority of the ruler, it came to embody the idea that the people retain their authority, which they may reclaim if a government is tyrannical and which reverts to them when governments are dissolved. Chapter 1 does not pretend to sketch a novel, original thesis about the origins of the idea of popular sovereignty; it builds upon major works in the field of the history of ideas and political thought. Yet, it is an important part of the book, since it lays out a clear picture of the origins and transformations of the idea of popular sovereignty up to the early modern period, and helps to understand the contexts and debates that shaped it, up to that period.

Chapter 2 focuses on the relationships between the ruler sovereignty, popular sovereignty, and state sovereignty in the context of the emergence of the modern conception of the state as a governmental authority differentiated from both the people and office-holders. Emphasis is put on the issue of ultimate authority in governing orders, and on the tensions between the early modern theory of popular sovereignty and the counter-thesis of absolute regal power. The latter was reinforced by a new conception of the state as the locus of legislative sovereignty and as distinct from both rulers and ruled. The focus on how the question of ultimate authority in governing orders evolved in the sixteenth and seventeenth centuries is important, since the idea of popular sovereignty involves the nature of the governing relationship and the issue of ultimate authority. Together with Chapter 3, Chapter 2 raises the issue of the relationships between claims to authority from people(s), rulers, and governmental institutions in the modern notion of sovereignty as a specific conception of the governing relationship.

Chapter 3 is devoted to the notion of (state) sovereignty as a distinct institution having specific functions in modern polities. Modern sovereignty relates to a distinctive way of claiming ultimate authority within and upon a territory. Yet, the focus on the claim to ultimate authority leaves open the issue of the source and legitimacy of such authority, as well as of the nature of the governing relationship. This justifies examining some theses that – wrongly, from the point of view of this book – make popular sovereignty dependent upon the very existence of the modern state. Addressing the issue of the relationship between state sovereignty

and popular sovereignty is an important task in the current context, since the significant debates on state sovereignty have not had any major counterpart in reflections on popular sovereignty, up to now. One reason for this surely rests with the very close identification of popular sovereignty with democratic self-rule, in modern political theory. Yet, both popular sovereignty and the governing relationship embodied by the modern state are liable to change when the objects, claims, and scope of contentious politics – that all bear upon the boundaries and nature of the polity – are transformed.

Chapter 4 tackles the issue of the embodiment of the people as the source of political legitimacy in the nation. The people as political agency takes a new turn in eighteenth- and nineteenth-century Europe: it is now a collective political agency which retains and exercises its sovereignty as a nation; and this body politic is seen as being made of individuals who also are increasingly conceived of as autonomous agents, and as equals.[1] Those developments make even more complex the issue of the relationship between state sovereignty and popular sovereignty, because most states consolidated as nations, and the two are often assimilated, as in the model of the nation-state. But the two should be kept conceptually and analytically distinct, not only because they designate different phenomena, but also because state sovereignty and popular sovereignty do not have the same origin. State sovereignty originates in the Roman notion of *Imperium* and its correlates, whereas popular sovereignty can be traced back to some medieval interpretations of the Roman notion of *lex regia*, as explained in Chapter 1.

Such a distinction is a useful reminder of the fact that in the current context as well, challenges to democratic rule shall be kept distinct from challenges to state sovereignty. A rather naive view assumes that challenges to popular sovereignty are subordinated to challenges to state sovereignty, and seems to forget that the modern democratic state was not ridden of conflicts between political and economic interests, particularly between elites and 'ordinary' people. Significant processes of contention continue to oppose ordinary people to ruling classes and economic elites, in the current context, and although democratic regimes are supposed to be ones in which 'the people rule', some decisions and processes in which rulers participate seem quite estranged to the 'common' good. Chapters 5 to 7 therefore are dedicated to contention and challenges facing both the representation of the polity as one nation, and the people's control over processes of decision-making. Chapter 5 recalls that the embodiment of the modern notion of popular sovereignty in liberal democratic regimes has depended upon actual popular struggles for inclusion in the body politic, the enlargement of franchise, and basic individual rights. C. Tilly's

analysis of popular contention in Great Britain during the 1754–1834 period is used to illustrate the processes of contention that contributed to the democratization and nationalization of Western liberal states, from the eighteenth century to the twentieth. It is appropriate to tackle such processes because popular sovereignty came to be closely identified with democratic self-rule, during that period. Tilly's analysis shows how popular contention changed national politics, and how, in the course of such processes, Great Britain moved from a situation of indirect rule to a situation of much more direct rule. Moreover, his analysis points to components of contentious politics that are useful for identifying the forms and prospects for popular sovereignty in our own era: the relationship between contention and public politics; the relationship between actual loci of decision-making, repertoires of contention, and the objects of claims; the continuous struggles opposing ordinary people to elites and powerholders; the interplay between contentious politics on the one hand, and discourses and representations on the other. In other words, it supports the idea of refocusing analyzes of popular sovereignty and democracy on processes, rather than static ideals, and helps in getting a clearer picture of the current transformations of the nature both of polities and of the governing relationship.

Chapter 6 goes back to the issue of the nation, and explains how plurinational societies challenge the idea that it is the unified, relatively homogeneous nation that is the indivisible beholder of popular sovereignty. Such societies are made of multiple demoi and of minority nations that claim to be invested with a constituent power of their own. Hence, they challenge the indivisibility of the constituency that is key to modern doctrines of popular sovereignty. The latter assumption – namely, the one of the indivisibility of the constituency – plays a major part in institutions and practices that are fundamental to liberal democracy; let us think, for example, of the 'one person, one vote' principle. Yet, this assumption impinges upon minority nations' claims to self-rule, and severely restricts a more thorough reflection on the heterogeneity of the nation and the state. So the issue is not merely one of the relationships between policies and of how state sovereignty is perceived in different countries, for example, in federal v. unitary states. It also pertains to the impact of heterogeneity on the 'indivisibility assumption'. I will suggest that M. Loughlin's assertion that state sovereignty as a representation of the autonomy of the political cannot be contested is misguided, because the sovereign state is not the only possible way of embodying collective political agency, and because the public/private distinction that is core to modern politics is currently undergoing significant changes that bear upon collective political agency and its representations.

The issue of popular sovereignty is closely intertwined with that of the nature of the governing relationship and of the nature of the authority

exercised by the people. Its development has been shaped by political, social, economic, and cultural struggles between, on the one hand, rulers themselves, and, on the other, rulers and the people. It has also been shaped by changes in social representations of the nature, role, and functions of the political community, including the nature of what is deemed to be 'public' and of its relationship to what is not. Chapter 7 therefore turns to the transformation of the governing relationship characteristic of the current era of globalization. It stresses that there is a multisited structure of governance that embodies a different type of governing relationship, characterized amongst other things by the growth of 'private' forms of authority, the marketizing of public functions, and differentiated regimes of rights. Such a governing relationship must be recognized as such: international regimes are political systems of rule. Citizens, social movements, and NGOs are engaged in contentious politics opposing them at once to economic elites, states, and global regimes of governance in a system of rule that may be described as 'fragmented tyranny'. This does not mean that there is one, global civil society. But it is precisely such contentious politics, and the governing regimes it opposes, that must be scrutinized if one wants to really understand what stands out, for the people's capacity to rule for themselves, of this never-ending bargaining over rights, wealth, and resources, in our own era.

## References


Archibugi, D. , Held, D. and Köhler, M. (eds) (1998) Re-imagining Political Community. Studies in Cosmopolitan Democracy, Stanford: Stanford University Press.

Baker, K.M. (2006) 'Political languages of the French Revolution', in M. Goldie and R. Wolker (eds) The Cambridge History of Eighteenth-Century Political Thought, New York/Cambridge: Cambridge University Press.

Bellamy, R. (2003) 'Sovereignty, post-sovereignty and pre-sovereignty: Three models of the state, democracy and rights within the European Union', in N. Walker (ed.) Sovereignty in Transition, Oxford: Hart Publishing.

Bermeo, N. (2003) Ordinary People in Extraordinary Times. The Citizen and the Breakdown of Democracy, Princeton: Princeton University Press.

Biersteker, T.J. and Weber, C. (1996) 'The social construction of state sovereignty', in T.J. Biersteker and C. Weber (eds) State Sovereignty as Social Construct, Cambridge: Cambridge University Press.

Black, A. (1988) 'The conciliar movement', in J.H. Burns (ed.) The Cambridge History of Medieval Political Thought c. 350–c. 1450, Cambridge/New York: Cambridge University Press.

Brenner, N. (1999) 'Globalization as reterritorialization: The rescaling of urban governance in the European Union', Urban Studies, 36 (3): 431–451.

Buijs, G. (2003) '"Que les Latins appellent maiestatem": An exploration into the theological background of the concept of sovereignty', in N. Walker (ed.) Sovereignty in Transition, Oxford: Hart Publishing.

Bull, H. (2002) The Anarchical Society. A Study of Order in World Politics, 3rd edn, London: Palgrave.

Burns, J.H. (1991) 'Sovereignty and the mixed constitution: Bodin and his critics', in J.H. Burns (ed.) The Cambridge History of Political Thought 1450–1700, Cambridge/New York: Cambridge University Press.

Canning, J. (1980) 'The corporation in the thought of the Italian jurists of the thirteenth and fourteenth centuries', History of Political Thought, 1 (1): 9–32.

Canning, J. (1988a) 'Introduction: Politics, Institutions and Ideas', in J.H. Burns (ed.) The Cambridge History of Medieval Political Thought c. 350–c. 1450, Cambridge/New York: Cambridge University Press.

Canning, J. (1988b) 'Law, sovereignty and corporation theory, 1300–1450', in J.H. Burns (ed.) The Cambridge History of Medieval Political Thought c. 350–c. 1450, Cambridge/New York: Cambridge University Press.

Canning, J. (1996) A History of Medieval Political Thought 300–1450, London: Routledge.

Canovan, M. (1996) Nationhood and Political Theory, Cheltenham: Edward Elgar.

Canovan, M. (2005) The People, Cambridge: Polity Press.

Cassese, A. (1995) The Self-Determination of Peoples. A Legal Reappraisal, Cambridge: Cambridge University Press.

Christodoulidis, E. and Tierney, S. (2008) 'Public law and politics: Rethinking the debate', in E. Christodoulidis and S. Tierney (eds) Public Law and Politics. The Scope and Limits of Constitutionalism, Aldershot: Ashgate.

Chung, R. (2004) 'Domination à l'ère de la mondialisation', Bulletin d'histoire politique, 12 (3): 15–23.

Connolly, W. (2004) 'The complexity of sovereignty', in J. Edkins , V. Pin-Fat and M.J. Shapiro (eds) Sovereign Lives: Power in an Era of Globalization, London: Routledge.

Cutler, A.C. (1997) 'Artifice, ideology and paradox: The public/private distinction in international law', Review of International Political Economy, 4 (2): 261–285.

Delbrück, J. (2003) 'Exercising public authority beyond the state', Indiana Journal of Global Legal Studies, 10: 29–43.
Dyzenhaus, D. (2004) 'The left and the question of law', Canadian Journal of Law and Jurisprudence, XVII (1): 7–30.
Falk, R. (1993) 'Sovereignty', in J. Krieger (ed.) The Oxford Companion to Politics of the World, Oxford: Oxford University Press.
Fassbender, B. (2003) 'Sovereignty and constitutionalism in international law', in N. Walker (ed.) Sovereignty in Transition, Oxford: Hart Publishing.
Franklin, J.H. (1967) 'Constitutionalism in the sixteenth century: The protestant monarchomachs', in D. Spitz (ed.) Political Theory and Social Change, New York: Atherton Press.
Franklin, J.H. (1973) Jean Bodin and the Rise of Absolutist Theory, Cambridge: Cambridge University Press.
Franklin, J.H. (1978) John Locke and the Theory of Sovereignty, Cambridge: Cambridge University Press.
Franklin, J.H. (1991) 'Sovereignty and the mixed constitution: Bodin and his critics', in J.H. Burns (ed.) The Cambridge History of Political Thought 1450–1700, Cambridge/New York: Cambridge University Press.
Gagnon, A.-G. and Tully, J. (eds) (2001) Multinational Democracies, Cambridge: Cambridge University Press.
Greenfeld, L. (1992) Nationalism. Five Roads to Modernity, Cambridge, Mass.: Harvard University Press.
Greenfeld, L. (2001) The Spirit of Capitalism. Nationalism and Economic Growth, Cambridge, Mass.: Harvard University Press.
Habermas, J. (1996) 'The European nation state. Its achievements and its limitations. On the past and future of sovereignty and citizenship', Ratio Juris 9 (2): 125–137.
Habermas, J. (1998) Between Facts and Norms. Contributions to a Discourse Theory of Law and Democracy, Cambridge, Mass.: MIT Press.
Hall, R.B. and Biersteker, T.J. (eds) (2002) The Emergence of Private Authority in Global Governance, Cambridge: Cambridge University Press.
Held, D. , McGrew, A. , Goldblatt, D. and Perraton, J. (1999) Global Transformations. Politics, Economics and Culture, Stanford: Stanford University Press.
Hickman, T.R. (2005) 'In defence of the legal constitution', University of Toronto Law Journal, 55: 981–1022.
Hinsley, F. (1986) Sovereignty, 2nd edn, Cambridge/New York: Cambridge University Press.
Hont, I. (1994) 'The permanent crisis of a divided mankind: "Contemporary crisis of the nation state" in historical perspective', Political Studies, XLII: 166–231.
Imig, D. and Tarrow, S. (2001) 'Studying contention in an emerging polity', in D. Imig and S. Tarrow (eds) Contentious Europeans. Protest and Politics in an Emerging Polity, Lanham, Md.: Rowman and Littlefield.
Jackson Preece, J. (1998) National Minorities and the European Nation-States System, Oxford: Clarendon Press.
Jackson, R. (1999) 'Sovereignty in world politics: a glance at the conceptual and historical landscape', in R. Jackson (ed.) Sovereignty at the Millennium, special issue of Political Studies, XLVII: 431–456.
James, A. (1999) 'The practice of sovereign statehood in contemporary international society', in R. Jackson (ed.) Sovereignty at the Millenium, special issue of Political Studies, XLVII: 457–473.
Jenkins, B. and Sofos, S.A. (1996) 'Nation and nationalism in contemporary Europe: A theoretical perspective', in B. Jenkins and S.A. Sofos (eds) Nation and

Identity in Contemporary Europe, London/New York: Routledge.
Kahler, M. and Lake, D.A. (2003) 'Globalization and Governance', in M. Kahler and D.A. Lake (eds) Governance in a Global Economy. Political Authority in Transition, Princeton: Princeton University Press.
Keating, M. (2001) Plurinational Democracy. Stateless Nations in a Post-Sovereignty Era, Oxford: Oxford University Press.
Keating, M. (2003) 'Sovereignty and plurinational democracy: Problems in political science', in N. Walker (ed.) Sovereignty in Transition, Oxford: Hart Publishing.
Keating, M. (2012) 'Rethinking territorial autonomy', in A.-G. Gagnon and M. Keating (eds) Political Autonomy and Divided Societies: Imagining Democratic Alternatives in Complex Settings, Basingstoke/New York: Palgrave Macmillan.
Keating, M. and McGarry, J. (eds) (2001) Minority Nationalism and the Changing International Order, Oxford: Oxford University Press.
Kelley, D.R. (1991) 'Law', in J.H. Burns (ed.) The Cambridge History of Political Thought 1450–1700, Cambridge/New York: Cambridge University Press.
Kratochwil, F. (1995) 'Sovereignty as dominion: Is there a right of humanitarian intervention?', in G. Lyons and M. Mastanduno (eds) Beyond Westphalia?, Baltimore: Johns Hopkins University Press.
Kymlicka, W. (2000) 'Nation-building and minority rights: Comparing West and East', Journal of Ethnic and Migration Studies, 26 (2): 183–212.
Kymlicka, W. and Straehle, C. (1999) 'Cosmopolitanism, nation-states and minority nationalism: A critical review of recent literature', European Journal of Philosophy, 7 (1): 65–88.
Lecours, A. and Nootens, G. (2009) 'Nationalism and identity in contemporary politics. Issues of democratic shared and self-rule', in A. Lecours and G. Nootens (eds) Dominant Nationalism, Dominant Ethnicity. Identity, Federalism, Democracy, Brussels: P.E.I. Peter Lang.
Lindahl, H. (2001) 'Sovereignty and the institutionalization of normative order', Oxford Journal of Legal Studies, 21 (1): 165–180.
Lindahl, H. (2003) 'Sovereignty and representation in the European Union', in N. Walker (ed.) Sovereignty in Transition, Oxford: Hart Publishing.
Lindahl, H. (2006) 'Give and take: Arendt and the *nomos* of political communities', Philosophy and Social Criticism, 32 (7): 881–901.
Lindahl, H. (2008) 'Democracy, political reflexivity and bounded dialogues: reconsidering the monism-pluralism debate', in E. Christodoulidis and S. Tierney (eds) Public Law and Politics. The Scope and Limits of Constitutionalism, Aldershot: Ashgate.
Lloyd, H.A. (1991a) 'Sovereignty: Bodin, Hobbes, Rousseau', Revue Internationale de Philosophie, 4 (179): 353–379.
Lloyd, H.A. (1991b) 'Constitutionalism', in J.H. Burns (ed.) The Cambridge History of Political Thought 1450–1700, Cambridge/New York: Cambridge University Press.
Loughlin, M. (2003a) The Idea of Public Law, Oxford: Oxford University Press.
Loughlin, M. (2003b) 'Ten tenets of sovereignty', in N. Walker (ed.) Sovereignty in Transition, Oxford: Hart Publishing.
Loughlin, M. (2008) 'Reflections on The Idea of Public Law', in E. Christodoulidis and S. Tierney (eds) Public Law and Politics. The Scope and Limits of Constitutionalism, Aldershot: Ashgate.
Loughlin, M. and Walker, N. (2007) 'Introduction', in M. Loughlin and N. Walker (eds) The Paradox of Constitutionalism. Constituent Power and Constitutional Form, Oxford: Oxford University Press.
Lupel, A. (2009) Globalization and Popular Sovereignty. Democracy's Transnational Dilemma, London: Routledge.

Macartney, C.A. (1968) National States and National Minorities, New York: Russell and Russell.
MacCormick, N. (1999) Questioning Sovereignty. Law, State, and Nation in the European Commonwealth, New York: Oxford University Press.
Mann, M. (1997) 'Has globalization ended the rise and rise of the nation-state?', Review of International Political Economy, 4 (3): 472–496.
McAdam, D. , Tarrow, S. and Tilly, C. (2001) Dynamics of Contention, Cambridge: Cambridge University Press.
Miller, D. (1995) On Nationality, Oxford: Clarendon Press.
Morgan, E.S. (1988) Inventing the People. The Rise of Popular Sovereignty in England and America, London/New York: Norton.
Murphy, A.B. (1996) 'The sovereign state system as political-territorial ideal: historical and contemporary considerations', in T.J. Biersteker and C. Weber (eds) State Sovereignty as Social Construct, Cambridge: Cambridge University Press.
Näsström, S. (2003) 'What globalization overshadows', Political Theory, 31 (6): 808–834.
Nootens, G. (2005) 'Nations, states and the sovereign territorial ideal', in E. Nimni (ed.) National Cultural Autonomy and its Contemporary Critics, London: Routledge.
Nootens, G. (2010) 'Nations, sovereignty, and democratic legitimacy: On the boundaries of political communities', in K. Breen and S. O'Neill (eds) After the Nation? Critical Reflections on Post-Nationalism, London: Palgrave Macmillan.
Nootens, G. (2012) 'Autonomy, boundaries and trust', in A.-G. Gagnon and M. Keating (eds) Political Autonomy and Divided Societies: Imagining Democratic Alternatives in Complex Settings, Basingstoke/New York: Palgrave Macmillan.
Onuf, N. (1991) 'Sovereignty: outline of a conceptual history', Alternatives, 16: 425–446.
Papillon, M. (2009) 'Towards Postcolonial Federalism? The Challenges of Aboriginal Self-Determination in the Canadian Context', in A.-G. Gagnon (ed.) Contemporary Canadian Federalism: Foundations, Traditions, Institutions, Toronto: University of Toronto Press.
Pennington, K. (1988) 'Law, legislative authority and theories of government, 1150–1300', in J.H. Burns (ed.), The Cambridge History of Medieval Political Thought c. 350-c. 1450, Cambridge/New York: Cambridge University Press.
Philpott, D. (1999) 'Westphalia, authority, and international society', in R. Jackson (ed.) Sovereignty at the Millennium, special issue of Political Studies, XLVII: 566–589.
Picciotto, S. and Mayne, R. (1999) Regulating International Business. Beyond Liberalization, London: Palgrave Macmillan.
Pierré-Caps, S. (1994) 'Karl Renner et l'État multinational: contribution juridique à la solution d'imbroglios politiques contemporains', Droit et société, 24: 421–441.
Pierré-Caps, S. (1997) 'L'autodétermination: d'un principe de creation de l'État à un principe de constitution de l'État', in O. Audéoud , J.-D. Mouton and S. Pierré-Caps (eds) L'État multinational et l'Europe, Nancy: Presses Universitaires de Nancy.
Pogge, T. (1992) 'Cosmopolitanism and Sovereignty', Ethics, 103 (1): 48–75.
Pogge, T. (1997) 'Creating supra-national institutions democratically: reflections on the European Union's "democratic deficit"', The Journal of Political Philosophy, 5 (2): 163–182.
Prokhovnik, R. (2007) Sovereignties. Contemporary Theory and Practice, London: Palgrave Macmillan.
Reynolds, S. (1997) Kingdoms and Communities in Western Europe, 900–1300, 2nd edn, Oxford: Clarendon Press.

Ruggie, J. (2004) ‘Reconstituting the global public domain. Issues, actors, and practices’, European Journal of International Relations, 10 (4): 491–531.
Sassen, S. (2003) ‘The participation of states and citizens in global governance’, Indiana Journal of Global Legal Studies, 10 (1): 5–28.
Sassen, S. (2006) Territory, Authority, Rights. From Medieval to Global Assemblages, Princeton: Princeton University Press.
Scholte, J.A. (2000) Globalization. A Critical Introduction, New York: St. Martin’s Press.
Shelly, R. (2006) ‘Stuntman for the State: Loughlin’s Idea of Public Law’, Ratio Juris, 19 (4): 479–488.
Sen, A. (1999) ‘Democracy as a universal value’, Journal of Democracy, 10 (3): 3–17.
Sen, A (2003) ‘Democracy and its global roots’, The New Republic, 229 (14): 28–35.
Seymour, M. (2008) De la tolérance à la reconnaissance, Montreal: Boréal.
Skinner, Q. (1978a) The Foundations of Modern Political Thought, vol. I: The Renaissance, Cambridge: Cambridge University Press.
Skinner, Q. (1978b) The Foundations of Modern Political Thought, vol. II: The Age of Reformation, Cambridge: Cambridge University Press.
Slaughter, A.-M. (2004) A New World Order, Princeton: Princeton University Press.
Sommerville, J.P. (1991) ‘Absolutism and Royalism’, in J.H. Burns (ed.) The Cambridge History of Political Thought 1450–1700, Cambridge/New York: Cambridge University Press.
Stein, P.G. (1988) ‘Roman law’, in J.H. Burns (ed.) The Cambridge History of Medieval Political Thought c. 350- c. 1450, Cambridge/New York: Cambridge University Press.
Tamir, Y. (1993) Liberal Nationalism, Princeton: Princeton University Press.
Tarrow, S. (2001) ‘Transnational politics: contention and institutions in international politics’, Annual Review of Political Science, 4: 1–20.
Tierney, B. (1975) ‘Divided sovereignty at Constance: A problem of medieval and modern political theory’, Annuarium Historiae Conciliorum, 7: 239–256.
Tierney, B. (1982) Religion, Law, and the Growth of Constitutional Thought 1150–1650, Cambridge: Cambridge University Press.
Tierney, S. (2007) ‘“We the Peoples”: Constituent power and constitutionalism in plurinational states’, in M. Loughlin and N. Walker (eds) The Paradox of Constitutionalism. Constituent Power and Constitutional Form, Oxford: Oxford University Press.
Tierney, S. (2008) ‘Sovereignty and the idea of public law’, in E. Christodoulidis and S. Tierney (eds) Public Law and Politics. The Scope and Limits of Constitutionalism, Aldershot: Ashgate.
Tierney, S. (2009) ‘Crystallizing dominance. Majority nationalism, constitutionalism and the courts’, in A. Lecours and G. Nootens (eds) Dominant Nationalism, Dominant Ethnicity. Identity, Federalism and Democracy, Brussels: P.I.E. Peter Lang.
Tilly, C. (1994) ‘The Time of States’, Social Research, 61 (2): 269–295.
Tilly, C. (1995) Popular Contention in Great Britain 1758–1834, Cambridge, Mass.: Harvard University Press.
Tilly, C. (1998) Durable Inequality, Berkeley and Los Angeles: University of California Press.
Tilly, C. (2004) Contention and Democracy in Europe, 1650–2000, Cambridge: Cambridge University Press.
Tilly, C. (2007) Democracy, Cambridge: Cambridge University Press.

Tully, J. (1995) Strange Multiplicity. Constitutionalism in an Age of Diversity, Cambridge: Cambridge University Press.
Tully, J. (2008a) Public Philosophy in a New Key, vol. I (Democracy and Civic Freedom), Cambridge: Cambridge University Press.
Tully, J. (2008b) Public Philosophy in a New Key, vol. II (Imperialism and Civic Freedom), Cambridge: Cambridge University Press.
Walker, N. (2003) 'Late sovereignty in the European Union', in N. Walker (ed.) Sovereignty in Transition, Oxford: Hart Publishing.
Walker, N. (2006) 'European constitutionalism in the state constitutional tradition', Current Legal Problems, 59 (1): 51–89.
Walker, N. (2007) 'Post-constituent constitutionalism? The case of the European Union', in M. Loughlin and N. Walker (eds) The Paradox of Constitutionalism. Constituent Power and Constitutional Form, Oxford: Oxford University Press.
Walker, N. (2008) 'Taking constitutionalism beyond the state', Political Studies, 56: 519–543.
Weinert, M. (2007) 'Bridging the Human Rights-Sovereignty Divide', Human Rights Review, 8 (2): 5–32.
Werner, W.G. and De Wilde, J.H. (2001) 'The endurance of sovereignty', European Journal of International Relations, 7 (3): 283–313.
Wolf, K.D. (1999) 'The new Raison d'État as a problem for democracy in world society', European Journal of International Relations, 5 (3): 333–363.
Wood, G.S. (2006) 'The American Revolution', in M. Goldie and R. Wolker (eds) The Cambridge History of Eighteenth-Century Political Thought, New York/Cambridge: Cambridge University Press.
Yack, B. (2001) 'Popular sovereignty and nationalism', Political Theory, 29 (4): 517–536.
Zürn, M. (2004) 'Global governance and legitimacy problems', Government and Opposition, 39: 260–287.