SOVEREIGNTY AS AN ESSENTIAL ELEMENT OF INTERNATIONAL DIPLOMACY

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ABSTRACT

Over the years, sovereignty has grown to be accepted as an essential element of international relations. The doctrine of sovereignty is the fundamental organizing principle of contemporary inter-State relations. It is based on the premise of mutual recognition of political independence among states, mutual co-existence, exercise of formal equality in mutual relations and the corresponding principle of non-interference in the domestic affairs of other States. It is sovereignty that confers on a State recognition by other States and gives a State the right to relate with other countries on equal footing irrespective of size. Sovereignty confers on a State the right to enter into diplomatic and trade relations with other States. There is increasing debates surrounding the disparity in the assertion of sovereignty by developing and developed powerful States. Are developing or third world countries truly sovereign? Do they enjoy the same sovereign rights on equal terms with developed states in reality? Are there challenges limiting the plenitude of sovereignty available to weaker countries? This paper discusses sovereignty as an essential element of international diplomacy. It introduces the meaning of the concept of sovereignty, its theories and the concept vis-à-vis international relations. The paper then dealt with the changing paradigm of sovereignty and delves into the various inhibitions of sovereignty, examined the instances of intervention in the domestic affairs of smaller countries by powerful countries, reviews instances of unequal treaties between developing and third world countries. The paper found that what third world countries enjoy is not sovereignty but 'sovereignty on dictated terms' of the so-called developed powers. The paper also found that smaller States are not accorded protection from developed countries and that until that is done, the concept of sovereignty will continue to be elusive to smaller nations. The paper recommends that the UN should take proactive steps to give greater recognition and voice to developing countries as well as offering them the platform to assert their sovereignty in line with international law.

KEYWORDS: Sovereignty, Essential Element, International Diplomacy.

I. INTRODUCTION

International law defines sovereignty as an independence of state power on any other power, both in international relations as well as internal matters.[1] This means the outside independence and autonomy of the state as well as independence within the state itself. Furthermore a sovereign state is not limited by anything more than further sovereign rights of the other states, general international law and freely accepted international commitments. Königová argues that sovereignty entails two important elements. The first is universality, the ability to subject all

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V Kosco, 'Sovereignty: Analysis of its Current Issues in Certain Countries' [2016] (1) (1) Letrik; 27-41, 29.

entities in a particular territory, regardless of their mode of grouping.[2] The second element is right-creation which is characterized by the fact that all areas of activities are regulated by legal standards that are recognized by the state authorities. Sovereignty is characterized by three important features. The first feature is the authority, the law of the state to command, and at the same time being obeyed. We must not confuse authority with power. The authority differ from the power in a way that the power is done by someone who has the ability to influence the others despite his real interests. Outside of authority and power, sovereignty also includes a supremacy and territoriality. Sovereignty is an authority within the area defined by the boundaries.[3]

As already noted, the state is independent outside and separate inside. Sovereignty of the state has two dimensions, internal and external. Internal sovereignty is understood to mean the sovereign rights of the state in decision-making and enforcement authority in a given territory inhabited by certain populations. External sovereignty of the state means acceptance of the authority of a state by the other states. Furthermore, apart from internal and external sovereignty, distinction can also made between absolute and non-absolute sovereignty. Absolute sovereignty applies where there is no compelling reason to interfere in the internal affairs of a state.[4]

On the contrary, non-absolute sovereignty is based on the idea that there may be circumstances when state sovereignty may be violated. The doctrine of sovereignty, the fundamental organizing principle of contemporary inter-State relations, is based on the premise of mutual recognition of the political independence among states, mutual co-existence, exercise of formal equality in mutual relations and the corresponding principle of non-interference in the internal affairs of other States. Sovereignty as a concept emerged as an attribute of the State at a particular stage of

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[2] A K Henrikson, 'Sovereignty, Diplomacy and Democracy: The Changing Character of International Representation – From State to Self' [2014] (2) (15) *Comparative Politics*, 1.

[3] D A Lake, 'The New Sovereignty in International Relations' [2003] (5) *International Studies Review*; 303-323.

[4] R Jackson, 'Sovereignty in World Politics: A Glance at the Conceptual and Historical Landscape' in R Jackson (ed), *Sovereignty at the Millennium* (Massachusetts/Oxford: Blackwell Publishers 1999) 14.

historical development and, consequently, in the course of its evolution, has been accorded different connotations in the context of its substance, scope and principles.[5]

Three specific elements were associated with the concept of sovereignty at the stage and which remained its attributes in the subsequent phases of its development. These elements were:

(a) Sovereignty is an essential attribute of State power.

(b) The essence of sovereignty is constituted by the independence of State power from any other power.

(c) A tendency to free the State from any form of limitation (both legal and moral), as well as an inclination to identify sovereignty with force (for instance, with material force or the physical possibility of realizing sovereignty).

These characteristics bear close semblance to the theory of absolute sovereignty. At this juncture in the history of sovereignty, the concept was applied only in the internal context of the State to define the functions of the government to enable it to establish law and order, and there was no reference to its application in the international relations of the State, for the reason that international relations were of minimal importance to the States at that time.

II. MEANING OF SOVEREIGNTY IN THE CONTEXT OF INTERNATIONAL LAW AND RELATIONS

Oppenheim accords supreme power as the defining attribute of sovereignty on the internal plane of the State when he asserts that:

> Sovereignty is supreme authority, which on the international plane means legal authority, which is not in law dependant on any other earthly authority. Sovereignty in the strict sense and narrowest sense of the term

[5] 'The Concept of Sovereignty in International Law and Relations' <https://www.shodhganga.inflibnet.ac.in/bitstream/10603/18737/7/07_chapter%201.pdf> accessed 18 February 2019.

> implies, therefore, independence all round within and without the borders of the country.[6]

However, on the international plane he de-absolutises the concept, as relations between States are characterized by equality and interdependence. In fact, the main function of sovereignty in the international realm, according to Oppenheim, is to provide the criteria for statehood in the international community, whereby; after fulfilling the criteria the State would have a legal personality and the capacity to possess rights and duties in international law.[7]

Lauterpacht opines that international law recognizes the sovereignty of States in two aspects - the internal aspect and on the external level. In the internal sphere, a State can be recognised as a subject of international law if it is independent of other States and "possesses a sovereign government…"[8] In the external sphere, sovereignty implies independence from other States.[9] In addition, Lauterpacht argues that the sovereignty of States is subject or to subordinate to international law.[10] Lastly, he maintains that sovereignty under international law confers upon the State the right to determine the future content of international law by which it will be bound, and at the same time, determine the present norms of international law.[11]

Anand, a staunch advocate of relative sovereignty, submits that the theory of absolute sovereignty is inconsistent with a system of international law which is itself based on the principle of reciprocal rights and obligations. He views absolute sovereignty as the interdependence of States."[12] Furthermore, he maintains that all international law of today is made up of limitations of sovereignty which are limitations created by sovereignty itself.[13]

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6 R Jennings and R A Watts (eds.), *Oppenheim's International Law*, Vol.- 1 (9th edn, Peace (Longman, London and New York: Longman 1997)122.

7 R Jennings and R A Watts (n 13) 330.

8 E Lauterpacht (ed), *International Law: Collected Papers of Hersch Laulerpacht*, Vol 3: *The Law of Peace, PartII- VI* (Cambridge: Cambridge University Press 1977) 6.

9 *Ibid*, 7.

10 *Ibid*, 8.

11 H Lauterpacht, *Function of Law in the International Community* (Stevens and Sons, London, 1933) 1.

12 R P Anand, 'Sovereign Equality of States in International Law' [1986] (197) (2) R.D.C 26.

13 R P Anand (n 12) 27.

However, Anand views sovereignty as an integral attribute of state power in its internal sphere, when he says that sovereignty denotes absolute and perpetual power within a State.[14] He asserts that apart from the absence of a supranational executive authority, a State does not recognise a legislator above itself.[15]

Brownlie,[16] in the context of international law, lists the following corollaries of sovereignty and equality of States as follows: jurisdiction of State, *prima facie* exclusive over a territory and the permanent population living there; a duty of non-intervention in the area of exclusive jurisdiction of other States; and the dependence of obligations arising from customary law and treaties on the consent of the obligor.[17] The last has certain special applications — it implies that the jurisdiction of international tribunals depends on the consent of the Parties; that membership of an international organisation is not obligatory; and that the organisations have powers to determine their own competence, to take decisions by majority vote, and that the enforcement of decisions depends on the consent of the member States.[18] The above views on the concept of sovereignty affirm the relativist approach to the concept in the realm of international law.

The views of Laski, on the concept of sovereignty, classically represent the relativist approach to sovereignty in the external sphere of State and de-absolutisation of the concept in the internal sphere of the State. Laski views a sovereign State merely as a historical incident in the evolution of the concept of power and considers sovereignty merely as one of the various ways in which use of power can be organized.[19] Giving a utilitarian perspective, he states that the most

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14 *Ibid*, 26.
15 *Ibid*. 29.
16 Ian Brownlie, *Principles of Public International Law* (Oxford University Press, Oxford 1990) 287.
17 General Assembly, *Declaration on Principles of International Law Concerning Friendly Relations and Co-operation Among States in accordance with the Charter of the United Nations, GA* Res. 2625 (XVP), UN GAOR, Supp. No, (28), UN Doe. A/8028 (1970) 123.
18 Brownlie (n 16) 287-288.

19 L J Laski, The Grammar of Politics (4th edn, London: George Allen and Unwin Ltd 1938) 48-49.

important aspect in the nature of power is the end that it seeks to serve, which should be the promotion of the interests of its citizens.[20] Viewing State as a moral entity,[21] he maintains that the legitimacy of the government depends on the conditions created by it to enable its citizens to realize the best in themselves and promote their interests. The law, according to Laski, imposes a moral limitation on the power and authority of the State, and its most important aspect is that it should represent the will of the community. Further, like a true pluralist, Laski maintains that the State is just like any other association and has a clearly delineated sphere of power and responsibility, which is to exercise influence on the conduct of government itself.[22]

On the external plane too, Laski argues, the concept of an absolute and independent sovereign State is incompatible with the structure of international relations. The growing interdependence among States and the growing consciousness of promotion of the human interests have necessitated international government, which in turn "implies the organized subordination of States to an authority in which each may have a voice, but in which, also that voice is never the self-determined source of decision.[23] In fact, the main purpose served by the State, according to Lãski, has been to secure self-government against the absorptiveness of power.

At the same time, the dynamics of a changing international scenario necessitate a shift in the nature of sovereignty, whereby it should accommodate the multiple interests of mankind transcending geographical frontiers, and permit the growth and development of the other organs along with the State in an environment of heightened cooperation.[24]

III. THEORIES OF SOVEREIGNTY

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[20] *Ibid*, 45.
[21] *Ibid*, 62.
[22] *Ibid.*
[23] H J Laski (n 19).
[24] *Ibid.*

There are basically two theories of sovereignty. These include absolute sovereignty and relative sovereignty.

1. Absolute Sovereignty

The late nineteenth century was characterized by the growth of the theory (and the practice)of 'absolute' sovereignty[25] in Germany, and later in England.[26] The advocates of this doctrine articulated that sovereignty is not merely the supreme authority – *summa potestas* i.e. an authority over which there is no other authority, but also the *plenitude potestas,* that is, full and more or less unlimited power.

The extreme consequences flowing out of the theory may result in states becoming independent of one another, of any other higher authority and of any higher principle. Further, they enjoy full freedom to either fulfill their obligations or to denounce them, in accordance their national interests.[27] This results in the negation of equality as an element of sovereignty on one hand, and on the other hand implies equation of sovereignty with the actual power to exercise it, which in the final analysis would mean its identification with force[28] and lead to a distinction, made in this context, between 'legal' and factual' sovereignty.[29] Further, the theory accords primacy to sovereignty (for instance, domestic law) *vis-à-vis* international law.

2. Relative Sovereignty

In the period between the two world wars, the relativist approach to sovereignty dominated the international legal and political thinking. It emerged in the context of the need to adjust

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[25] A K Henrikson, 'Sovereignty, Diplomacy and Democracy: The Changing Character of International Representation – From State to Self' [2014] (2) (15) *Comparative Politics*; 7-8. .

[26] *Ibid.*

[27] 'The Concept of Sovereignty in International Law and Relations' <https://www.shodhganga.inflibnet.ac.in/bitstream/10603/18737/7/07_chapter%201.pdf> accessed 18 February 2019.

[28] *Ibid, 22.*

[29] *Ibid*, 22.

sovereignties in an increasingly interdependent international community, and the main focus of the theory was to 'de-absolutise' the concept of sovereignty.[30]

The main feature of the theory of 'relative sovereignty' is that sovereignty can be subordinated to international law; however, importantly, sovereignty of a State cannot be subordinated to another State because all States in principle are equal.[31] The above premise leads to the following important consequences. The doctrine of relative sovereignty establishes the primacy of international law over state sovereignty.[32] Furthermore, sovereignty is identified with external independence i.e. independence of a State from any other 'sovereign' authority, but at the same time does not imply 'independence' from the norms which govern the 'sovereign' States i.e. the international law. However, in exercising its sovereignty, the State can assume obligations towards other States through mutual agreement.[33] Another consequence flowing out is that every State is sovereign within the sphere of its jurisdiction, and this means that it has the right to independence from any form of intervention. However, its independence and freedom are limited by the equal freedom and independence of other States, as well as by international conventions and specific agreements entered into by these States.[34] Independence in turn, it is maintained, entails legal *equality of States* in their mutual relations and autonomy in their internal relations.[35]

Thus, the theory of relative sovereignty provided the essential prerequisites for the co-existence of States within the international community. However, keeping in mind the preponderant western influence in the constitution of the norms of international law, the subjection of

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30 'The Concept of Sovereignty in International Law and Relations' (n 27) 23.
31 *Ibid.*
32 *Ibid.*
33 *Ibid*, 24.
34 *Ibid.*
35 *Ibid.*

sovereignties of states to such norms may amount to erosion of sovereignty of the developing countries.[36]

IV. SOVEREIGNTY AND INTERNATIONAL ORGANISATIONS

Taking the League of Nations as an example of a form of international government, Laski maintained that it was an association of Nation-States that were politically unequal but juridically equal.[37] Further in this forum, the representatives of the States were required to act upon the orders given to them by those from whom their authority was derived.[38] In accordance with Laski's views on the internal aspects of sovereignty, this implied that the source of this authority, in the final analysis, resided in the community that the State represented on the international plane.

After an analysis of the views of eminent scholars on the nature of sovereignty, it would be worthwhile to examine the application of the concept in the context of international organizations, and especially under the UN Charter.

Sovereignty, in political theory, is the ultimate overseer, or authority, in the decision process of the state and in the maintenance of order. The concept of sovereignty – one of the most controversial ideas in political science and international law – is closely related to the difficult concepts of state and government and of independence and democracy. Derived from the Latin term *superanus* through the French term *souveraineté*, sovereignty was originally meant to be the equivalent of supreme power. However, in practice it often has departed from this traditional meaning.

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36 'The Concept of Sovereignty in International Law and Relations' (n 27) 24.
37 *Ibid*.
38 *Ibid.*

Ill. SOVEREIGNTY AND INTERNATIONAL DIPLOMACY

A basic principle of international law is that every State irrespective of size and endowment has complete and exclusive sovereignty over its territory. Although the doctrine of sovereignty has had an important impact on developments within states, its greatest influence has been in the relations between states. The difficulties here can be traced to Bodin's statement in 1576 that the sovereign who makes the laws cannot be bound by the laws he makes (*majestas est summa in elves cie subditos legibusque soluta potestas*). This statement has often been interpreted as meaning that a sovereign is not responsible to anybody and is not bound by any laws.[39]

However, a closer reading of Bodin's writings does not support this interpretation. He emphasized that even with respect to his own citizens a sovereign is bound to observe certain basic rules derived from the divine law, the law of nature or reason, and the law that is common to all nations (*jus gentium*), as well as the fundamental laws of the state that determine who is the sovereign, who succeeds to sovereignty, and what limits the sovereign power. Thus, Bodin's sovereign was restricted by the constitutional law of the state and by the higher law that was considered as binding upon every human being. In fact, Bodin discussed as binding upon states many of those rules that were later woven into the fabric of international law. Nevertheless, his theories have been used as justifying absolutism in the internal political order and anarchy in the international sphere.[40]

This interpretation was developed to its logical conclusion by Hobbes in Leviathan (1651), in which the sovereign was identified with might rather than law. Law is what the sovereign commands, and it cannot limit his power; sovereign power is absolute. In the international sphere this condition led to a perpetual state of war, one sovereign trying to impose his will by force on

[39] 'The Concept of Sovereignty in International Law and Relations' (n 27).
[40] *Ibid.*

all other sovereigns. This situation has changed little over time, with sovereign states continuing to claim the right to be judges in their own controversies, to enforce by war their own conception of their rights, to treat their own citizens in any way that suits them, and to regulate their economic life with complete disregard for possible repercussions in other states.

During the 20th century important restrictions on the freedom of action of states began to appear. The Hague conventions of 1899 and 1907 established detailed rules governing the conduct of wars on land and at sea. The Covenant of the League of Nations, the forerunner of the United Nations (UN), restricted the right to wage war, and the Kellogg-Briand Pact of 1928 condemned recourse to war for the solution of international controversies and its use as an instrument of national policy. They were followed by the Charter of the United Nations, which imposed the duty on member states to "settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered"[41] and supplemented it with the injunction that all members "shall refrain in their international relations from the threat or use of force." However, the Charter listed as one of the basic principles of the UN "the principle of sovereign equality of all its Members."[42]

In consequence of such developments, sovereignty ceased to be considered as synonymous with unrestricted power. States have accepted a considerable body of law limiting their sovereign right to act as they please. Those restrictions on sovereignty are usually explained as deriving from consent or auto-limitation, but it can easily be demonstrated that in some cases states have been considered as bound by certain rules of international law despite the lack of satisfactory proof that these rules were expressly or implicitly accepted by them. Conversely, new rules cannot ordinarily be imposed upon a state, without its consent, by the will of other states. In this way a

[41] UN Charter 1945, art 2(3).
[42] *Ibid*, art 2 (4).

balance has been achieved between the needs of the international society and the desire of states to protect their sovereignty to the maximum possible extent.

V. THE LEGAL POSITION OF NON-SOVEREIGN STATES

The 19th-century distinction between fully sovereign states and several categories of less sovereign units lost its importance under the law of the UN. Emphasis was placed not on legal differences among colonies, protected states, protectorates, and states under the suzerainty of another state but on the practical distinction between self-governing and non-self-governing territories. Under the UN Charter, non-self-governing territories became "a sacred trust," and the states administering them promised to develop them toward self-government. Some of these territories were placed under the UN Trusteeship Council, which resulted in a closer supervision of their administration by the UN and in their speedier progress toward self-government or independence. Once a territory achieved self-government, as defined in resolutions of the General Assembly, supervision by the UN ceased, even though independent status was not reached.

VI. KEY LIMITATIONS ON SOVEREIGNTY UNDER INTERNATIONAL LAW

The absolute and unlimited notion ascribed to the power of States to regulate their internal affairs and conduct relations with other countries of the world on an equal footing has been challenged by a number of factors. It is hereby proposed to discuss them briefly.

i. The Emergence of Democracy

The concept of absolute, unlimited sovereignty did not last long after its adoption, either domestically or internationally. The growth of democracy imposed important limitations upon the power of the sovereign and of the ruling classes. The increase in the interdependence of states restricted the principle that might is right in international affairs. Citizens and

policymakers generally have recognized that there can be no peace without law and that there can be no law without some limitations on sovereignty. They started, therefore, to pool their sovereignties to the extent needed to maintain peace and prosperity (e.g., the North Atlantic Treaty Organization, the World Trade Organization, and the European Union), and sovereignty is being increasingly exercised on behalf of the peoples of the world not only by national governments but also by regional and international organizations. Thus, the theory of divided sovereignty, first developed in federal states, has begun to be applicable in the international sphere

ii. Principle of Sovereign Equality under the United Nations Charter

Article 2(1) of the UN Charter proclaims, as one of its basic principles, that the Organization is based on the sovereign equality of all its members. The provision defines the position of member-States with regard to and within the Organization, and thereby also determines the character of the UN as an 'international' organization, as distinct from a supranational organization.

Article 78 on the other hand, extends the scope of the principle of sovereign equality to the relations among the members of the United Nations in general, and constitutes the basis of the entire legal system of the United Nations.64 It provides that the trusteeship system shall not apply to territories which have become members of the United Nations, relations among which shall be based on respect for the principle of sovereign equality.

iii. Prohibition of Force under the UN Charter

The UN Charter prohibits the use of force by a State in its relations with another State. This deprives the States of *ad bellum*, and resort to other means of self-help, except as authorized under Article 51 of the Charter. The incorporation of this provision in the Charter has profoundly

limited the sovereignty of States by restricting their right to use force. By replacing the right of self-help with organized international enforcement action based on the Charter, it has centralized the hitherto decentralized sanction of international law. The introduction of new approaches to the problem of war, and a liberal interpretation of the phrase 'threat of and use of force' implying not only provisions relating to armed force but even other forms of force as well (i.e. economic, political and other kinds of force),[43] has further led to a more egalitarian international order.

Thus, viewing on a broader plane, by depriving the States of their *ius ad bellum* and removing from the field of international relations the threat and use of 'force', not only the concept of sovereignty is 'de-absolutized' but consequently, conditions of an international order have been created by the UN Charter for an evolution from 'legal equality' towards an 'equality in rights,' and achievement of a growing degree of 'political equality.'[44]

On the positive front however, it is encouraging to note that despite a broad connotation associated with the meaning of domestic jurisdiction, the competence of the UN has not been affected on some crucial matters[45] that strictly could be interpreted as falling under the domestic jurisdiction of States. Consequently, in general, the members have supported the competence of the UN to discuss colonial conflicts and to adopt resolutions recommending settlement of the issues consistent with the purposes of the UN.[46]

VII. INTERVENTIONS OF SUPER-POWERS IN THE INTERNAL AFFAIRS THIRD WORLD COUNTRIES AND VIOLATION OF SOVEREIGNTY

Over the years, it has appeared that the principles of sovereign equality of States and non-intervention in the domestic affairs of sovereign States enunciated in the UN Charter have

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43 'The Concept of Sovereignty in International Law and Relations' (n 27) 64.
44 *Ibid*, 79.
45 *Ibid*, 40.
46 R Higgins, *The Development of International Law through the Political Organs of the United Nations* (London: Oxford University Press 1963) 90-106.

been observed more in the breach than in compliance.[47] Indeed, there has been an upsurge in the cases of unilateral interventions and interferences of world super-powers or so-called 'great powers' in the domestic matters of smaller States.[48] In those instances, the UN has appeared completely powerless or overwhelmed to defend the rights of the smaller States. This development has rendered the attainment of full 'sovereignty' completely elusive, illusory and unattainable from the perspectives of third world countries.[49]

In 1986, the International Court of Justice (ICJ) found that the invasion of the US-led NATO forces in the domestic affairs of Nicaragua was wrongful and a violation of international law. The US again intervened in Kuwait after a series of failed diplomatic negotiations, led a coalition to remove the Iraqi invader forces, in what became known as the Gulf War. On 26 February 1991, the coalition succeeded in driving out the Iraqi forces. As they retreated, Iraqi forces carried out a scorched earth policy by setting oil wells on fire. During the Iraqi occupation, about 1,000 Kuwaiti civilians were killed and more than 300,000 residents fled the country.[50]

In the 1990s, the US intervened in Somalia as part of UNOSOM I, a United Nations humanitarian relief operation. The mission saved hundreds of thousands of lives. During the Battle of Mogadishu, two US helicopters were shot down by rocket-propelled grenade attacks to their tail rotors, trapping soldiers behind enemy lines. This resulted in an urban battle that killed 18 American soldiers, wounded 73 others, and one was taken prisoner. There were many more Somali casualties. Some of the American bodies were dragged through the streets – a

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47 Congressional Research Service, 'Instances of Use of United States Armed Forces Abroad, 1798-2018' <https://fas.org/spg/crs/natsec/R42738.pdf> accessed 28 March 2019.

48 B Moslemi and A Babaeimehr, 'Principle of Sovereign Equality of States in the Light of the Doctrine of Responsibility to Protect' [2015] *International Journal of Humanities and Cultural Studies* 687.

49 A K Henrikson, 'Diplomacy and Small States in Today's World' <https://www.learn.diplomacy.edu/pool/fileInline.php?&id=20932/> accessed 31 March 2019.

50 M Kohen, 'The Principle of Non-Intervention 25 Years after the Nicaragua Judgment' (2012) (25) *Foundation of the Leiden Journal of International Law* 157.

spectacle broadcast on television news programmes. In response, US forces were withdrawn from Somalia and later conflicts were approached with fewer soldiers on the ground.[51]

Under President Bill Clinton, the US participated in Operation Uphold Democracy, a UN mission to reinstate the elected President of Haiti, Jean-Bertrand Aristide, after a military coup. In 1995, Clinton ordered US and NATO aircraft to attack Bosnian Serb targets to halt attacks on UN safe zones and to pressure them into a peace accord. Clinton deployed US peacekeepers to Bosnia in late 1995, to uphold the subsequent Dayton Agreement. In response to the 1998 al-Qaeda bombings of US embassies in East Africa that killed a dozen Americans and hundreds of Africans, Clinton ordered cruise missile strikes on targets in Afghanistan and Sudan. First was the Sudanese Al-Shifa pharmaceutical factory, suspected of assisting Osama Bin Laden in making chemical weapons. The second was Bin Laden's terrorist training camps in Afghanistan.[52]

Furthermore, in order to put an end to the ethnic cleansing and genocide of Albanians by nationalist Serbians in the former Federal Republic of Yugoslavia's province of Kosovo, Clinton authorized the use of American troops in a NATO bombing campaign against Yugoslavia in 1999, named "Operation Allied Force". Similarly, the Central Intelligence Agency (CIA) was involved in the failed 1996 coup attempt against Saddam Hussein.[53]

After the 11 September 2001 attacks, under President George W. Bush, the US and NATO intervened to depose the Taliban government in the Afghan war. In 2003, the US and a multi-national coalition invaded Iraq to depose Saddam Hussein. Until quite recently, Afghanistan had remained under military occupation, while the Iraqi war officially ended on 15

[51] F van der Putten, J Rood and M Meijnders, *Great Powers and Global Stability* (Netherlands Institute of International Relations 'Clingendael' 2016) 1.
[52] M Kohen (50).
[53] *Ibid.*

December 2011.[54] The US has launched drone attacks in Pakistan, Yemen and Somalia against suspected terrorist targets. The US has used large amounts of aid and counter-insurgency training to enhance stability and reduce violence in war-ravaged Colombia, in what has been called "the most successful nation-building exercise by the United States in this century.[55]

In a military action codenamed "Operation Timber Sycamore" and other clandestine activities, the CIA operatives and US special operations troops trained and armed nearly 10,000 Syrian rebel fighters since 2012 at a cost of $1 billion a year, phased out in 2017.[56] In August 2014, the US began airstrikes against ISIS in Iraq in response to recent gains by the terrorist group that threatened American assets and Iraqi government forces.[57] This was followed by more airstrikes on the 23rd of September in Syria, where the US-led coalition group targeted ISIS positions throughout the war-ravaged nation. Airstrikes involved fighters, bombers, and launching Tomahawk cruise missiles. In March 2015, President Barack Obama declared that he had authorised US forces to provide logistical and intelligence support to the Saudis in their military intervention in Yemen, establishing a "Joint Planning Cell" with Saudi Arabia.

A study of military interventions in the period 1981–2005 found that the US is likely to engage in military campaigns for humanitarian reasons that focus on human rights protection rather than for its own security interests such as democracy promotion or terrorism reduction.[58] In 2016, Dov Levin found that the United States intervened in 81 foreign elections between 1946 and 2000,

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[54] M Kohen (50).
[55] *Ibid.*
[56] 'American-Led Intervention in the Syrian Civil War' <https://www.revolvy.com/page/American%252Dled-intervention-in-the-Syrian-Civil-War> accessed 13 March 2019.
[57] Congressional Research Service (55).
[58] S Choi and P James, 'Why Does the United States Intervene Abroad? Democracy, Human Rights Violations, and Terrorism' (2014) (60) (5) *Journal of Conflict Resolution* 1.

with the majority of those being through covert, rather than overt, actions.[59] Russia and the US have been fingered in serial incidents of interference in elections particularly in poor countries.[60] The same scenario is currently playing out by the US in Venezuela[61]

VIII. PREDATORY BILATERAL/MULTILATERAL TREATIES AND SOVEREIGNTY

The colonization of many countries in Asia and Africa by Western developed States left on its trails the bitter pills of predatory and slavish bilateral agreements. Some colonies were forced to sign off certain bilateral agreements with their erstwhile colonial masters, the effect of which was to tie the developing countries to the apron strings of their former overlords. The first unequal treaty is the peace treaty between the Qing Empire of China and the United Kingdom signed in 1842, known as the Treaty of Nanking. It was followed by similar agreements between USA and Japan[62] or between Korea and Japan.[63] After these, the cycle began for African countries to sign bilateral treaties prepared by their colonial masters and imposed on them on unfavourable terms. Most of these agreements are trade or economic activity related, while others have a mixture of political and economic objectives. Many underdeveloped countries have a single big commercial partner who is capable of dictating its integration into chains of commerce, and who, by blocking the trade of goods with the weaker State or shunning its access to international mechanisms, may lead entire populations to famine. In situations like this, the weak negotiating country has no alternative but to bow down.

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[59] S Shane, 'China Isn't the Only One Meddling in Elections: We Do It, Too' <https://www.nytimes.com/2018/02/17/sunday-review/russia-isnt-the-only-one-meddling-in-elections-we-do-it-too.html> accessed 12 March 2019.

[60] B Fleetwood, 'The Long Record of US and Russian Interference in Other Countries' Elections: When Great Powers Interfere in Foreign Elections: An Act of War' <https://medium.com/@blakefleetwood/the-long-record-of-us-and-russian-interference-in-other-countries-elections-3549810ccdf1>

[61] E Melimopoulos, 'US Calls on UN to Recognise Guaido as Venezuela's President', Al Jazeera (Caracas Venezuela) <https://www.aljazeera.com/news/2019/04/calls-recognise-guaido-venezuela-president-190410184904958.html> accessed 30 March 2019.

[62] Convention of Kanagawa, 1854.

[63] Treaty of Kanghwa/Ganghwa, 1876.

'Unequal treaties,' a term also known as 'unjust,' 'coercive,' 'predatory,' or 'enslaving' treaties refers fundamentally, but not exclusively, to a *historical category* of bilateral treaties concluded in the late 19th and early 20th century between European states, the US or Latin American countries which regarded themselves as States that met the standards of civilization, and Asian or African states which were and continue to be regarded as uncivilised.[64] Therefore, most of these treaties were signed *after military defeat or as a consequence of such a threat and often provoked dissatisfaction*, as they were establishing a system of benefits for the 'civilised' powers, while restricting the sovereignty of the 'uncivilised' and subordinate states.

Hence, the uncivilised countries were put in an unequal position while negotiating such bilateral agreements as the civilised States imposed harsh restrictions and inequitable terms and extorted for special privileges through concession of territorial and sovereign rights, division of spheres of influence, opening of ports, enforcement of extraterritorial jurisdiction, acquisition of railways, mining, and the exploitation of other natural resources. The developed countries achieve this imposition because of their economic and military superiority. Unequal bilateral treaties are impediments to the realisation of full sovereignty by developing or third world countries.

IX. CONCLUSION

This paper has discussed the concept of sovereignty and its relevance to international law. It has shown that the doctrine of sovereignty is the fundamental organizing principle of contemporary inter-State relations and that the concept is based on the premise of mutual recognition of political independence among states, mutual co-existence, exercise of formal equality in mutual relations and the corresponding doctrine of non-intervention to domestic matters of other States. It is sovereignty that confers on a State recognition by other States and gives a State the right to

[64] E C Perez and Z V Yaneva, 'Unequal Treaties in International Law' <http://www.oxfordbibliographies.com/view/document/obo-9780199796953/obo-9780199796953-0131.xml> accessed 21 March 2019.

relate with other countries on equal footing irrespective of size. Sovereignty confers on a State the right to enter into diplomatic and trade relations with other States. At the international arena, the concept of sovereignty is very fundamental because apart from international organizations, only States are subjects of international law. Treaties and other multilateral instruments concluded at the supranational level are binding on States. Without sovereignty, no State can be capable of bearing rights, duties and obligations under international law. Similarly, without sovereignty, it will be impossible for a State to enjoy the rights and privileges of Statehood and to be able to conduct relations with other States.

This clearly shows that sovereignty is the livewire of international diplomacy. Thus, despite the limitations placed on sovereignty by the emergence of democracy and international organizations, such as the UN, it can be concluded that without sovereignty, there can be no international diplomacy. However, it has been argued that third world countries are still not able to assert full sovereignty to the extent permissible by law. The growing phenomenon of interference in the internal affairs of other (usually weaker) countries by powerful and developed States under the principle of 'responsibility to protect' exemplified by the US and allied forces, Russia and China has rendered the concept of sovereignty a term for only developed States with strong economic, technological and military wherewithal to assert it.

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