



# State Sovereignty and International Law: Navigating Autonomy amidst Today's Global Challenges

Judita JUHAROVÁ

PhD Student, Deák Ferenc Doctoral School of Law, University of Miskolc  
(Miskolc, Hungary);

Researcher, Central European Academy (Budapest, Hungary),

ORCID: 0009-0008-2011-1521,

e-mail: juditajuharova@gmail.com

Lilla GARAYOVÁ

PhD, Associate Professor, Vice-Dean, Faculty of Law, Pan-European University  
(Bratislava, Slovakia)

ORCID: 0000-0002-7999-4823,

e-mail: lilla.garayova@paneurouni.com

**Abstract.** State sovereignty carries immense significance in international relations. It is the foundation for the legal equality of states, allowing each state the same rights and duties under international law. This equality is critical for promoting diplomacy, treaty-making, and peaceful conflict settlement among states. State sovereignty offers a foundation for forming international organizations and developing diplomatic ties, allowing states to collaborate on mutually beneficial issues. It is not, however, absolute since it is susceptible to restrictions and difficulties in today's global world. Striking the right balance between respecting state sovereignty and global cooperation remains a complex and ongoing challenge in international relations. The aim of this paper is to give the reader an overview of the substance of state sovereignty in today's international law. The paper's main focus is the possibility of using strengthened state sovereignty as a tool for international cooperation and finding a perfect balance between these two seemingly contradictory phenomena.

**Keywords:** state sovereignty, international cooperation, international law

## 1. Introduction

In today's rapidly evolving world, sovereignty remains a foundational principle in international law. Defined as the exclusive authority of a state to govern itself within its territorial boundaries, sovereignty has long served as the cornerstone of nation-states' autonomy and self-determination. However, globalization, technological advancements, and interconnectedness have introduced new challenges to the traditional understanding and exercise of sovereignty. In this article, we delve into the complexities surrounding sovereignty in modern international law, exploring how the evolving global landscape demands innovative approaches to balance state autonomy and the common interests of the international community.

To comprehend the current notion of sovereignty in international law, it is essential to revisit its historical origins. The concept of state sovereignty emerged during the Peace of Westphalia in 1648, which marked a pivotal moment in the development of the modern nation-state system.<sup>1</sup> This treaty formally recognized the principle of territorial integrity and non-interference in domestic affairs, granting states exclusive control over their territory and people. Over the centuries, sovereignty solidified as the cornerstone of international relations, providing states with the legal authority to assert their independence and maintain their unique identities. The dawn of the 21<sup>st</sup> century brought about a profound transformation characterized by globalization. In this interconnected world, borders have become increasingly porous, facilitating the flow of goods, information, and people across international boundaries. While globalization has yielded numerous benefits, such as enhanced economic growth and cultural exchange, it has simultaneously challenged traditional notions of sovereignty. States now find themselves grappling with issues that transcend borders, such as climate change, terrorism, cyber warfare, and pandemics, necessitating collective action and cooperation on a global scale. States have created and embraced various international organizations and agreements to tackle these transnational challenges. Entities like the United Nations, the World Trade Organization, and the International Criminal Court have been established to address global concerns collectively. Consequently, states willingly cede some of their decision-making authority to these institutions, balancing protecting their sovereignty and participating in international governance mechanisms. While these organizations aim to foster cooperation and peace, they have faced criticism for occasionally infringing upon the sovereignty of Member States. One of the most contentious issues surrounding sovereignty in the contemporary era is the question of humanitarian intervention. The tension between upholding state sovereignty and safeguarding human rights has led to complex debates on when and how to

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1 Abhulimhen-Iyoha 2020. 14.

intervene in the internal affairs of other nations.<sup>2</sup> Advancements in technology have further complicated the concept of sovereignty. In the digital age, states must grapple with cyber warfare, data privacy, and intellectual property rights that transcend territorial borders. The Internet's borderless nature challenges traditional regulatory frameworks, prompting nations to assert their 'cyber sovereignty' concept to govern their cyberspaces and protect their citizens online.

Striking a balance between global internet governance and preserving state autonomy remains a contentious issue, with implications for international law and diplomatic relations.<sup>3</sup> In the following work, we will explain state sovereignty and the reasons why strengthening it can be beneficial for international cooperation.

## **2. State Sovereignty and Statehood. Anchoring Autonomy in an Interconnected World**

Although the existence of sovereign states is predicated on current international law, the concept of 'sovereignty' is still relatively new. Upper-Italian city states rejected the prevailing ideology of a hierarchically ordered feudal world with the Pope, the Roman/German Emperor, or both at its top by divine grace. They asserted independence from any superior authority due to their growing economic prosperity in the fourteenth century. It is noteworthy that economics was the driving force. Although the concept gained popularity, the debate raged on for centuries without a clear winner, and in its most recent stage, religious overtones exacerbated the situation. The Treaties of Westphalia, signed in 1648, finally confirmed the equality of states, defined by the territory of their rulers, as the basis of international law. Thus, sovereignty is a defining characteristic of the contemporary condition, and the existence of sovereign nations is a presumption made by international law. But what exactly does sovereignty entail? It is typically viewed as exercising supreme power over a particular region and its inhabitants by an autonomous authority representing the state's desire. Thus, it has two aspects: independence on the outside and ultimate rule on the inside. Although it refers to the exclusive source of authoritative actions, supreme governance does not specify the range of authority that a state exerts; it changes over time and among ideologies.<sup>4</sup>

Sovereignty can be defined as the supreme political authority that provides the basis for the modern international system, but it also subsequently endows states and governments. Over the years, this terminology has presented many challenges (in terms of its application, definition, defence, understanding, and

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2 Sunga 2006. 41–79.

3 Mathieu 2022. 36.

4 Zemanek 2019. 73–100.

usefulness) among scholars, practitioners, policymakers, jurists, and lawyers. So, at its most basic level, sovereignty may be seen as the ultimate control over people and geographic space, typically held by a group of institutions and individuals qualified to manage the affairs of the state – that is, the government. The term ‘sovereignty’ is a potent illustration of the social power of language as an organic tool that actively contributes to the ongoing process of generating and reshaping human reality. To analyse this term from a linguistic perspective is essential because language can represent, create, and transform reality. It also plays a role in modelling the shared consciousness of society. As a result, language can be used as a weapon to change the social consciousness of humanity. Therefore, the change in the meaning of ‘sovereignty’ also reflects the social changes that have developed throughout history. In literature, this term is generally used as a synonym for the state’s will to do as it wishes, especially in its territory, but without any constraint or interference from outside.<sup>5</sup>

The father of sovereignty is considered to be Jean Bodin, who, in his famous work, *Six Livres de la Republique*, first discussed this term. Sovereignty in the ideas of Bodin was based on the idea of the limitation of the king’s power by the will of God and natural law. He highlighted that the highest, absolute, and perpetual power exists in a Commonwealth over the citizens and subjects. Bodin characterized sovereignty as ‘the most high, absolute, and perpetual power over the citizens and subjects in a Commonwealth, which the Latins call Majestas.’<sup>6</sup> Bodin proceeded on the theory that ‘the people or the magnates of a commonwealth can bestow simply and unconditionally upon someone of their choice a sovereign and perpetual power to dispose of their property and persons, to govern the state as he thinks fit, and to order the succession, in the same way that any proprietor, out of his liberality, can freely and unconditionally make a gift of his property to another. Such a form of gift, not being qualified in any way, is the only true gift, being at once unconditional and irrevocable.’<sup>7</sup>

From this distinguishing, two main characteristics of sovereignty are evident: absoluteness and perpetuity. Power in Jean Bodin’s conception must be permanent. If sovereign power were conferred on one person temporarily, then it could not be sovereign – after that time, absolute power would revert back to the people. Bodin adds that the sovereign power must therefore be in the hands of the sovereign for the lifetime of the sovereign – if it were conferred only for a certain period of time, and if it were still exercised at the end of that time, it would only be done with consent or by the use of force or violence. This latter option is typical of tyranny. If the power continues to be exercised with consent, then one is not dealing with a sovereign ruler because his power will only be tolerated. He

5 Bilder 1994. 10–11.

6 Bodin 1955. 212.

7 Id. 61.

emphasized that there are no limitations to freedom, neither in charge, time, or power. The sovereignty of this kind is derived from the differentiation between ruler and subject. If the ruler would share his power with the subject, he would lose his status as a sovereign. Power is concentrated in the hands of one person – it is the absolute authority of one person, which reflects the conditions of the time in which Bodin lived and when the pyramidal construction of the state had to be ensured. The distinguishing feature of the sovereign from others (subordinates) is that the sovereign cannot be subject to the commands of another, because it is he who establishes the law, who abrogates laws already made, and who changes the laws of coercion. Moreover, law can overrule custom, but custom cannot derogate from law. ‘Custom only has binding force by the sufferance and during the good pleasure of the sovereign prince, and so far, as he is willing to authorize it. Thus, the force of both statutes and customary law derives from the authorization of the sovereign.’<sup>8</sup> All the other attributes of sovereignty (such as ‘the right to make peace and war, hearing appeals from the sentences of all courts whatsoever, appointing and dismissing the great officers of state; taxing, or granting privileges of exemption to all subjects, appreciating or depreciating the value and weight of the coinage, receiving oaths of fidelity from subjects and liege-vassals alike, without exception of any other to whom faith is due’)<sup>9</sup> are included in the power to make or not to make law – it is therefore, *stricto sensu*, a single right.

The people, according to Jean Bodin’s theory, therefore, renounce their power. The sovereign is the bearer of all sovereignty; there are no other persons who can participate in the exercise of sovereign power. The sovereign can only have advisers, whose function is only to assist the king, and then only to the extent that he himself wishes. The sovereign is bound only by the law of God, the natural law. Nor can he be limited in his power by any promise, by any covenant with society. He is not bound by positive law; he can therefore violate positive law, for he stands above the whole state, including the law. The renunciation of power in favour of the sovereign is, from the present point of view, the chief stumbling block of Bodin’s theory.

We can see that the people possessed a certain power, which they subsequently delegated to the sovereign. The problem is that the people surrendered their power (which was composed of the powers of individuals) – in doing so, they entered into an essentially absolute, unbreakable contract with the sovereign. The sovereign does not represent the people and is not accountable to them (since he is accountable only to God and only natural laws apply to him). The people cannot recall or replace the sovereign with another sovereign, let alone overthrow him. Of course, the question is raised whether the sovereign as representative of

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8 Id. 78.

9 Ibid.

society is obsolete. According to Bodin, a sovereign can never bind himself, even if he wishes to do so. But the case is different with divine right and natural right. All sovereigns on earth are subjects of natural and divine law and cannot violate it without treason and rebellion against God. The absolute power of rulers and sovereigns does not exceed divine law and natural law.

Regarding the related topic of customs, Bodin pointed out that some claim that these practices have almost the same legal force as laws despite the fact that they are independent of the judgment or authority of the sovereign ruler. Custom only has a legal effect if it is accepted by the sovereign prince, who may legislate it by adding his confirmation. Furthermore, the approval of subordinate bodies is never necessary, and their suggestions have no legal weight because absolute power is held at the apex of a pyramid of authority, most fittingly by a monarch.<sup>10</sup> As for common law, Bodin correctly points out that this law is created by private persons, citizens. The difference between law and custom, however, is that custom is created over many years in society by popular consent, imperceptibly and without the pretence of an absolutist ruler, since the representation of the people is rather the idea of democracy.

The theory of sovereignty was meticulously elaborated by Georg Jellinek. Jellinek understood sovereignty as an independent, supreme, and unlimited power in legal – not factual – terms. The state, therefore, from this point of view, must have some legal order and a constitution – the state cannot abolish the legal order and establish legal anarchy. The state therefore does not stand above the law in such a way that it is entitled to abolish the system of law as such. That is, the state is constrained by valid law. The judiciary is constrained by the law as well, as well as the executive. The state binds not only individuals but also its own institutions by its law. The state is also limited in terms of international law – because it must respect the general principles of international law in addition to the international treaties. However, states are equal in their sovereignty in the field of international law. This means that there is no entity that is superior to the states themselves – even according to Jellinek, states thus still remain ‘masters of treaties’.

Jellinek also made an important point – namely, that sovereign states do not only possess powers, but also have certain obligations. Sovereignty is thus not the unlimitedness of power but the ability to limit it; the ability to limit oneself through the legal order is thus a crucial feature of sovereignty. State power is therefore not all-encompassing – a sovereign state can limit itself by enacting laws or by recognizing international obligations. Sovereignty, according to Jellinek, ‘is not state omnipotence. It is a legal power and is therefore bound by law. It does not, however, suffer from any absolute legal limits. The State can dispense with any limit it has set for itself, but only in legal forms and by creating new limits.

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10 Beaulac 2003. 1–28.

Not a single limit, but a limitation is permanent. Just as there is no absolutely limited state, so there is no absolutely unlimited sovereign state.’<sup>11</sup>

The state, according to Georg Jellinek, possesses competence – it is itself therefore entitled to determine what powers it will exercise. However, these powers must be enshrined in the legal order. Sovereignty is therefore the capacity for exclusive legal self-determination – only a sovereign state can decide on its competence and only within the limits it has itself determined or recognized; it is its will. Jellinek also mentions the need to preserve the so-called material focus of the constitution – he explicitly states that ‘by recognizing international law and by performing acts binding on it in virtue of that recognition, a state limits itself by virtue of its legal power, without, however, being able to then legally discharge the obligation simply by its own decision. However, even as far as internal affairs are concerned, cases are possible in which even by means of a constitutional amendment a valid norm cannot be changed. The French law of 14 August 1884 prohibits the republican form of government from being made the subject of a proposal to revise the constitution. This provision may be repealed by force, but not by law.’<sup>12</sup>

According to Jellinek, then, the sovereignty of the state means, first and foremost, the formal authorization of the state to bind itself and other subjects by law. Other functions of the state are derived from this authority (e.g. lawmaking, judiciary, coinage, appointment of officials, etc.) – it is then the content of state power, not the content of state sovereignty. As Jellinek mentions, ‘from the fact that the state does not act in some way, that it does not have some of the powers or rights of government, no inference can be drawn as to the nature of its state power. How far the state should show activity in order to be sovereign is a question which cannot be answered in any way. When, therefore, two states united to each other exhibit competencies (such as a united state now possesses) so divided that each of them ascribes to itself only one certain quota of these competencies, it is by no means given that sovereignty or merely state power is divided. Rather, there are two separate powers whose competence is legally limited, without the two together making the whole of the state power.’<sup>13</sup>

These considerations then evoke the question of the separation of powers in a federal state. Then Jellinek answers that in a federal state its competence is divided between two states, so at first sight it seems as if sovereign state power is also divided between them. According to Jellinek, however, there is a confusion between the notion of state sovereignty and the competence of state power. Therefore, ‘neither sovereignty nor state power is divided between the federal state and the member state. What is divided are the objects to which

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11 Jellinek 1906. 509.

12 Id. 512.

13 Id. 513–514.

state power is attributed, not the subjective activity that concerns those objects.’<sup>14</sup> In a federation, therefore, there is one sovereignty, one state power. Among the federative organs and the authorities of the Member States, only the activities and powers of state power are divided. Jellinek also highlights the fact that the member states also have all the supreme organs of state and exercise all essential state functions. Jellinek therefore does not deal with the question of the limitation of sovereignty of the member states vis-à-vis the federation – in his view, it is only a question of the distribution of the activities of state power. Jellinek’s conception of sovereignty is very close in its basic theses to the currently most widely accepted concept of state sovereignty.

The most common definition of ‘domestic sovereignty’, which Hobbes and Bodin initially forcefully argued for, is the power and actual control of a government inside a state. ‘Interdependence sovereignty’, or the capacity of a government to regulate the entry and outflow of commodities, money, people, illness, ideas, pollution, and the like, is a more modern definition proposed by proponents of globalization. The third sort of sovereignty, or ‘international legal sovereignty’, is given or withheld when a state is acknowledged by other governments and given all legal rights that come with being a state such as equality before the law, diplomatic immunity, and membership in international organizations. International law academics frequently think about this kind of sovereignty.<sup>15</sup>

A widely used definition of sovereignty was provided by the Montevideo Convention on Rights and Duties of States (from now on: ‘Montevideo Convention’) of 1933. According to Article 1 of the Montevideo Convention, four qualifications should be met for an entity to be considered a state. The qualifications are as follows: ‘(a) a permanent population; (b) a defined territory; (c) government; and (d) capacity to enter into relations with the other States.’<sup>16</sup> This definition is considered the most widely accepted interpretation of the state, even though the Montevideo Convention is not widely signed or ratified.<sup>17</sup>

A cornerstone of the international legal order and a significant premise of international law is sovereignty. A state’s absolute power and independence inside its borders are called sovereignty. It includes the state’s right to exercise internal self-government over its citizens, assets, and decision-making procedures. The foundations of sovereignty are statehood, non-interference, and state equality. One of the pillars of international law, sovereignty encourages legal parity between nations. All states are treated equally under international law and have the same rights and duties regardless of size, population, or economic might. States’ sovereignty guarantees their ability to participate equally in international

14 Jellinek 1906. 533.

15 Philpott 2001. 299–300.

16 Montevideo Convention on Rights and Duties of States, Article 1.

17 Wong 2013. 353.



forums, treaties, and other legal documents. According to the leading scholar in international law of his time, Emmerich de Vattel: 'Every nation, every sovereign and independent state, deserves consideration and respect, because it makes an immediate figure in the grand society of the human race, is independent of all earthly power, and is an assemblage of a great number of men who are, doubtless, more considerable than any individual. The sovereign represents his whole nation; he unites in his person all its majesty. No individual, though ever so free and independent, can be placed in competition with the sovereign; this would be to put a single person alone upon an equality with a united multitude of his equals. Nations and sovereigns are then, at the same time under an obligation, have a right to maintain their dignity and to cause it to be respected as of the utmost importance to their safety and tranquillity.'<sup>18, 19</sup>

A few factors can characterize state sovereignty. Firstly, it should be embodied by the equality of states, which means that states possess equal legal standing and the same rights and obligations under international law. This should apply regardless of the state's size, economic strength, or population. This principle is the basis for diplomatic relations, negotiations, and the formation of international organizations. Secondly, state sovereignty also covers non-interference, meaning that states are protected in internal affairs by the principle of sovereignty. Non-intervention safeguards states from undue external influence and allows them to regulate their social, political, and economic system without external influence. The third pillar of this phenomenon is the exclusive authority of states.<sup>20</sup> The mentioned authority is granted to the states to exercise legal, political, and administrative control within its borders. This includes decision-making processes, the allocation of resources, and law enforcement, but also enabling the said to govern effectively and provide its citizens with the protection of their rights and interests. According to Carl Schmitt, sovereignty consists of the sovereign producing and guaranteeing the situation. It controls the most recent decisions. Within this lies the core of sovereignty, which must be adequately defined in legal terms as a monopoly of decision-making rather than a monopoly of compulsion or leadership.<sup>21</sup>

Furthermore, the implications of state sovereignty include four more aspects. State sovereignty as a phenomenon is a fundamental principle of international law, expressed in its legal framework. In its dimension, states are provided with the legal framework to engage in conventions, treaties, and agreements voluntarily. This establishes the basis for cooperation, resolving disputes and promoting common goals such as human rights, trade relations, and environmental protection.

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18 Lee 2002. 1033.

19 De Vattel 1758. 208–209.

20 Abhulimhen-Iyoha 2020. 14–21.

21 Maftai 2015. 56.

National identity is also a valuable aspect of state sovereignty.<sup>22</sup> It allows states to preserve and protect their national identity, culture, and values. It also provides states with the means for self-determination, granting the citizens the right to choose their political destiny and pursue their goals as a distinct community. State sovereignty ensures states can develop and maintain their unique identity without external interference. State sovereignty also plays a vital role in forming the bedrock of international relations. The interaction of states is based on the principle of sovereign equality, engaging in diplomacy, trade agreements, and negotiations. Stability, order, and the peaceful resolution of disputes in the global arena are all fostered by respect for sovereignty. In today's interconnected world, state sovereignty faces many challenges and limitations. However, the tension between upholding sovereignty and participating in global governance remains a complex and evolving dynamic in international relations.<sup>23</sup>

The Blackwell Encyclopaedia of Political Thought defines state sovereignty as a power, an authority with the attributes of a supreme agent, whether an individual or group of persons, acting according to its will and power to make essentially definitive decisions and settle disputes within the political hierarchy. A person or entity is said to have sovereign power if they are independent of outside forces, possess absolute control over their internal groupings, and have dominance over them. To meet these objectives, specific characteristics need to be fulfilled. The first one is the need for supreme power, in which the sovereign is understood as an institution with the right to issue a final decision, which means it has final power. Final power is the following characteristic: it belongs to those that can make final decisions in the final hierarchy of sovereign power.<sup>24</sup> The following precondition is the effect as the general outcome of a decision. Lastly, the sovereign is supposed to be autonomous, which means that he is deciding independently, and his decisions are independent of someone else's will.<sup>25</sup> Each state is mainly sovereign via its independent will to decide on its territory, population, constitutional organization, power mechanism, and interactions with other (third) entities. The relativity of sovereignty is founded on the past; states have always been sovereign in certain areas, while they are not entirely sovereign in others even now – this relativity stems from the fact that sovereignty has never been practised in its perfect form.<sup>26</sup> The following signs indicate sovereignty or sovereign power:

- independence from other state power or public authority of other institutions;
- the existence of one (unified) state power or exclusivity;
- unrestricted in terms of applicability.<sup>27</sup>

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22 Mathieu 2022. 31.

23 Id. 38.

24 Ušiak 2009. 35–54.

25 Ibid.

26 Svák–Cibulka–Klíma 2009. 977.

27 Filip–Svatoň–Zimek 1997, 340.

Sovereignty is thus the highest power inside a particular territory, symbolizing its most crucial dimension. Each component of this definition emphasizes an essential aspect of its comprehension. First and foremost, the bearer of sovereignty wields power. This indicates that a person or entity does not only have coercive capabilities, which are defined as A's capacity to compel B to do anything he would not otherwise do of his own free choice. Thus, power represents both the right to command and the right to be followed. The phrase 'right' is crucial here, because it means legitimacy. The authority of the bearer of sovereignty is derived from a mutually accepted source of legitimacy, such as natural law, divine power, inheritance law, the constitution, or even international law. However, if sovereignty is a matter of power, it is the ultimate power, not simply 'ordinary' power. Territoriality is the final component of the notion of sovereignty.<sup>28</sup> This phrase refers to the concept that defines the members of a certain community. It states that their 'membership' depends on living inside specific borders. An essential concept defines 'membership' or 'belonging' in ways that may not always correspond to identification. A sovereign state's borders do not always define a nation; in theory, they might comprise many of these 'identities'.<sup>29</sup>

Today, 'modern' sovereigns exercise absolute authority in a physically delimited realm. State sovereignty, on the other hand, does not imply arbitrariness. According to F. Weyer, state sovereignty is expressed in the domestic legal system. The law binds the state, must behave and act by the law, and is subject to the law, representing the law's sovereignty as a fundamental premise of the rule of law. However, the state is subject to broad standards of international law that it is obligated to comply with. The state's sovereignty is expressed in its position of power.

The genesis of the concept of sovereignty is well portrayed by Václav Pavlíček, who first states that the concept of sovereignty was already linked to Christianity and the creation of modern states.<sup>30</sup> At that time, the state was identified with the sovereign, but the power of the sovereign competed with the power of the church – for the church asserted that the state power was its servant. These power struggles were ultimately won by the state – it was placed above the church, neither subject nor equal to it. Further problems were created by the Holy Roman Empire, led by the emperor, who regarded the states as his provinces. Also, the influence of the feudal lords and cities, who wanted to exercise their power on the territory of the state at the expense of the sovereign, was not negligible.

The notion of state sovereignty was thus linked to the notion of sovereignty of the sovereign power, or rather the person of the sovereign, who in those disordered times was to ensure the functioning of the state as a whole and was forced to earn and defend his power. Pavlíček defines power sovereignty as a

28 Hathaway 2008. 121.

29 Philpott 2010.

30 Pavlíček 1999. 12–47.

power proportionally the most powerful among others. The state's sovereign power is the strongest and highest power among the powers operating on its territory; no other power is superior to it on the state's territory. State sovereignty is above all other powers as the supreme power, that is, sovereign, and all other powers must respect it.<sup>31</sup>

### **3. Stronger State Sovereignty as a Helpful Tool for More Efficient International Cooperation**

It is widely recognized that international law is founded on consent. No state can be held liable for a rule of international law (other than *ius cogens*) unless it consented to the rule either through a treaty or through state conduct and public pronouncements. We refer to the partnerships in which consent is conveyed as sovereign party relations. The sovereign must agree to be bound by a specific international law rule.<sup>32</sup>

The foundational pillars upon which current international law, including its theories and practices, is built are the concepts of sovereignty and state. These two ideas are necessary for international law because the basis of international law is the self-created law between sovereign nations. International law expresses inter-state law, in which a state is considered a sovereign geographical entity. But the modern theory of international law, which cannot define state and sovereignty in a coherent and logically consistent way, has an insurmountable obstacle and difficulty with both ideas.<sup>33</sup>

But what is considered a state? That is the question probably most frequently discussed among legal scholars besides 'What is law?'. These questions are strongly interconnected because, according to the legal positivists, the state is logically both the source of law (i.e. a primary lawmaker) and the object of law, as it is governed by it. This statement is valid for the relationship between international law and the state. If the legal community bound by the rule is a state, such data is necessary to determine whether or not a rule is international. However, to answer the question definitively, we must first determine whether or not the relevant regulation is global. The definition of the word 'state' relates to the definition of the expression 'international law', which is defined by the term 'state'. Thus, a circular definition would bite its tail. The result is that the definition is blank on the subject.<sup>34</sup> Some scholars use the tradition of personifying the state to solve the difficult task of defining a state. In his book 'Law of Nations' ('Prawo narodów'),

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31 Cibulka 2007. 5–11.

32 Brand 1995. 1685.

33 Distefano 2019. 89.

34 Ross 2006. 12.

Polish scholar Ludwik Ehrlich describes the personification of states as an essential phenomenon in international law. According to Ehrlich, the state is essentially considered as if it were a natural person with free will and the ability to exercise it in its area of persons. In this sense, the sovereign king was replaced by the state. In the human mind, the state is frequently portrayed as a superhuman entity or being, similar to Leviathan, rather than an abstraction. Relationships between the states are commonly seen as relationships between living individuals.<sup>35</sup> Max Weber defined the state as having three traditional components: territory, people, and sovereignty, with sovereignty being the baseline that presupposes the state's exclusive right to use force.<sup>36</sup>

Several competing theories in international law attempt to explain the relationship between international and national law. These theories, in particular, aim to address the issue of which legal standards, international or national, should take precedence in the event of a conflict between these norms. The dualistic approach's proponents contend that international and domestic law are separate legal systems without connection. These two legal systems have different sources, different subjects (primarily states and international organizations in the case of international law and private individuals, and natural and legal persons in the case of national law), and different objects (the subject matter) of regulation (i.e. interstate relations in the case of international law and intrastate relations in the case of national law). Whether legal norms, international or national, should be used in the case of a dispute between them is not directly addressed by the dualistic approach, which is relatively popular among international-legal specialists. There cannot be a contradiction between international law and national law, theoretically speaking, because they are two distinct legal systems that govern various types of social relations. On the other hand, advocates of dualism could counter that only national laws, such as constitutional standards, can be used to apply international law in the context of national law. A hierarchically arranged pyramid of legal norms is how the monistic approach to the link between international and national law proposes that both laws make up one legal system. The sole issue is which type of international or domestic law should stand at the top of the legal pyramid. Kelsen's legal theory intertwines international and domestic legal systems, with international legal norms holding precedence. According to Kelsen, in this hierarchy of legal norms, the lower-level legal norms acquire legitimacy from the higher-level legal norms, thus leading to a single fundamental standard that is 'hypothetical' rather than 'real'. What exactly this 'basic norm' is unclear for is because Kelsen initially placed 'pacta sunt servanda', one of the cornerstones of international law, at the top of the legal pyramid before coming up with the illogically circular 'basic norm' that reads, 'The states ought

35 Merezhko 2019. 25.

36 Newton-van Deth 2010. 22.

to behave as they have customarily behaved'; however, the constitution serves as 'the basic norm' for national court judges even in those legal systems that are considered to be 'monistic', and in which the priority in cases of disagreement between international treaties and national law belongs to the latter.

The United Nations (UN) has a longstanding viewpoint on state sovereignty, reflected in its founding charter and various resolutions. The UN recognizes state sovereignty as a fundamental principle in international relations, emphasizing the equality and independence of all member states.<sup>37</sup> The UN Charter, adopted in 1945, serves as the foundational document of the United Nations. Article 2(1) of the Charter states: 'The Organization is based on the principle of the sovereign equality of all its Members.'<sup>38</sup> This article affirms that all UN member states are equal in sovereignty and have an equal say in the organization's decision-making processes. Article 2(4) emphasizes the importance of state sovereignty by stating that member states should refrain from the threat or use of force against any state's territorial integrity or political independence.<sup>39</sup> UN Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States outlines fundamental principles governing state relations, including the principle of state sovereignty. It emphasizes that every state has the right to choose its political, economic, social, and cultural system without external interference. The declaration reiterates the importance of non-interference in the domestic affairs of other states.<sup>40</sup>

One key idea supporting the strengthening of current international law is unquestionably national sovereignty. Mazilu recognized that according to modern international law, state sovereignty should be the political and legal basis of the international personality of the state. No matter the size, level of strength, or stage of development, it belongs to all states. The state's sovereignty is the most critical aspect of its power and calls for internal and external supremacy.<sup>41</sup> According to the saying, 'Some freedom stops where the freedom of others begins', there is a necessity for the existence of competing sovereignties to have legal equality of sovereignty in international relations, coming from the fact that every state should have the same sovereign authority when it comes to managing international relations.<sup>42</sup>

Although it may seem contradictory at first glance, strengthening state sovereignty can be prosperous for international cooperation, as it can facilitate and support this kind of cooperation between states. Firstly, it has an impact on

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37 Abhulimhen-Iyoha 2020. 16.

38 Charter of the United Nations, Article 2(1).

39 Id. Article 2(4).

40 United Nations General Assembly 1970. Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States. <https://undocs.org/A/RES/25/2625> (accessed: 15.6.2023).

41 Mazilu 2001. 130.

42 Maftai 2015. 56.

mutual respect and consent. The concept of mutual respect among sovereign states is strengthened by strong national sovereignty.<sup>43</sup> When a country is confident in its independence and control over internal matters, it is more inclined to cooperate with other countries based on mutual consent and benefit. Therefore, it impacts the voluntary participation of the state in international affairs. Strengthening national sovereignty ensures that governments engage in international cooperation voluntarily. When states willingly participate in cooperative initiatives, they are more likely to be committed to the success of those endeavours and actively contribute their resources and expertise. Solid and sovereign states are also a precondition for equal partnership. Respecting national sovereignty reinforces the idea of equal partnership in international cooperation. Each sovereign state is regarded as an equal member of the global community, regardless of its size or economic power, fostering a sense of inclusivity and fairness in collaborative efforts. Strong national sovereignty allows countries to develop and implement strategies tailored to their needs and circumstances. This flexibility enables them to participate in international cooperation without sacrificing their unique interests or compromising their domestic policies. Strengthened sovereignty also allows states to be better positioned to negotiate effectively in international forums.<sup>44</sup> Their ability to assert their claims and preferences can lead to more constructive and productive negotiations, resulting in agreements that benefit all parties involved. Countries can address domestic issues effectively, which in turn contributes to the resolution of global challenges. Nations capable of managing their internal affairs are better equipped to collaborate on shared problems, such as climate change, terrorism, and public health crises. Strong national sovereignty can also catalyse regional cooperation. When neighbouring countries respect each other's independence and sovereignty, they are more likely to engage in regional initiatives to address common issues and promote regional stability. The method of strengthening national sovereignty also affects respecting diverse perspectives. It acknowledges the diversity of values, cultures, and political systems worldwide. This recognition fosters an environment of tolerance and understanding, which is essential for successful international cooperation. By respecting state sovereignty, unnecessary tensions and conflicts that might arise from perceived external interference can be prevented. While strengthening national sovereignty can benefit international cooperation, it is essential to strike a balance and recognize that some challenges require collective action and collaboration. Countries must find ways to engage in international efforts while safeguarding their sovereignty and protecting their national interests.<sup>45</sup>

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43 Goldsmith 2000. 959–986.

44 Lorca 2011. 61.

45 Goldsmith 2000. 959–986.



As mentioned above, strengthening state sovereignty remains a significant concern for many countries today. There are advantages to enhancing or pursuing a state's sovereignty. The safeguarding of national interests should be stated first and foremost. Countries may better preserve their national interests and adjust policies to meet their population's particular needs and aspirations by enhancing state sovereignty. This autonomy enables nations to make appropriate decisions for their cultural, economic,<sup>46</sup> and political settings. Furthermore, strong state sovereignty contributes to preserving a country's national identity and cultural legacy.<sup>47</sup> It allows nations to keep their languages, customs, and historical legacies alive, fostering a sense of solidarity and pride among their people. Strong state sovereignty gives governments the ability and legitimacy to enact programmes successfully. As a result, excellent governance, political stability, and efficient decision-making procedures are possible. Building and maintaining effective defence capabilities to safeguard territorial integrity<sup>48</sup> and national security is also made possible by strengthening state sovereignty. It helps them to respond to external threats while still maintaining internal harmony. Domestic industries may be supported, trade can be regulated, and economic policy can promote self-sufficiency. This financial autonomy can reduce dependency on other entities while simultaneously boosting resistance to economic shocks. Countries with substantial state sovereignty can create specialized economic and social growth programmes. It allows them to focus on specific goals like education, healthcare, and infrastructure to achieve long-term success. Furthermore, a strong feeling of sovereignty enables a country to engage in international talks from a position of strength. This negotiating power has the potential to achieve favourable outcomes in trade deals, diplomatic ties, and other international engagements. It also allows countries to reject outside meddling in their own affairs. It enables them to defend their national ideals and interests while maintaining autonomy. State sovereignty is critical in promoting democratic government. It will allow individuals to engage in decision-making processes, exercise their political rights, and hold their governments responsible without undue influence from outside sources. Finally, respect for state sovereignty can create mutual respect and peaceful cohabitation between nations. It promotes peaceful discourse, diplomacy, and conflict resolution, all contributing to global stability.<sup>49</sup>

A balanced strategy that recognizes the advantages of international collaboration while maintaining a nation's identity, interests, and autonomy is required to strengthen state sovereignty. Countries must deal with the problems of an interconnected world while retaining independence and enacting policies

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46 Czubik 2022. 105.

47 Zombory 2022. 258.

48 Czubik 2022. 107.

49 Kwiecien 2004–2005. 101–103.



that benefit their populations. It must be noted that some areas are typically ‘shared’, meaning they cannot be left to the state only. An example of this is the regulation of cyberspace and cybersecurity. State sovereignty in cyberspace can be safeguarded through developing cybersecurity capabilities and data protection regulations, but at the same time the necessary measures need to be taken by working together with international organizations, as these issues cannot be limited to the territory or governance of the State because the jurisdiction concerning this topic goes beyond these spaces.<sup>50</sup> A state can increase its influence by taking a stable approach to international relations, allowing it to express its interests while remaining open to collaboration. As a result, countries can engage effectively in regional and global forums while preserving their fundamental national principles and values.

## **4. Conclusions**

In the rapidly evolving landscape of modern times, the importance of state sovereignty remains as crucial as ever. As we conclude this exploration of the significance of state sovereignty, it becomes evident that this fundamental principle continues to play a vital role in shaping international relations and preserving global stability. State sovereignty serves as a safeguard for peace, autonomy, and the preservation of cultural diversity. Upholding the principle of non-interference, it fosters an environment of trust and cooperation among nations, allowing them to coexist peacefully and address their domestic challenges without external coercion. Moreover, state sovereignty empowers countries to determine their political, economic, and social systems, tailoring governance according to their unique circumstances and values. Throughout history, state sovereignty has been instrumental in countering imperialism and colonialism, asserting the equality of nations and protecting smaller states from undue influence. In a world that faces transnational challenges like climate change, terrorism, and pandemics, state sovereignty remains a bulwark against hegemonic ambitions, promoting a more equitable global order. However, the complex dynamics of globalization and technological advancements challenge state sovereignty in the modern era. As borders become more permeable, global issues increasingly demand collective action and international cooperation. Striking a balance between respecting sovereignty and addressing shared challenges calls for innovative solutions and a commitment to multilateralism. In this context, the international community needs to navigate the complexities of modern times with diplomacy, dialogue, and adherence to international law. Respecting state sovereignty while addressing global challenges will require

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<sup>50</sup> Paczoly 2022. 110.

pragmatic approaches that balance autonomy with the common good. Preserving state sovereignty is not a call for isolationism or an excuse for neglecting global responsibilities. Instead, it is an acknowledgment that the principles of autonomy and cooperation can coexist harmoniously. By recognizing the diversity of nations and their right to self-determination, the international community can build a world order that fosters peace, stability, and mutual respect among nations. As we progress into an interconnected future, state sovereignty will remain at the heart of international law. By upholding this principle, the world can embrace the richness of cultural diversity, empower nations to shape their destinies and find collaborative solutions to the shared challenges that lie ahead. In conclusion, state sovereignty in modern times is a critical pillar of global stability, fostering a world that values peace, autonomy, and the collective pursuit of a better future. As the international community navigates the complexities of an ever-changing world, embracing state sovereignty alongside international cooperation will pave the way for a more just, equitable, and interconnected global society.

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