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THE EVOLUTION OF SOVEREIGNTY: HISTORICAL ROOTS, LEGAL DEVELOPMENT, AND CONTEMPORARY PERSPECTIVES

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Abstract

Sovereignty, the ultimate authority of the state, has evolved from an ancient philosophical approach to a modern political and legal paradigm. Historically, it underwent an evolutionary journey through Greek, Roman, Christian, and Islamic traditions, later developed by thinkers like Bodin, Hobbes, and Rousseau. The jurisprudential development of sovereignty was shaped by milestones such as the Treaty of Westphalia, the Vienna Congress, and landmark cases like Lotus and Corfu Channel, inaugurating principles of territorial integrity and non-intervention. This evolution impacted the core concept and influenced diverse national practices, from parliamentary sovereignty in the UK to popular sovereignty in the USA, and constitutional-Islamic sovereignty in Pakistan. Sovereignty is connoted by attributes like permanence, exclusivity, comprehensiveness, inalienability, absoluteness, and indivisibility, and debated through monistic and pluralistic theories. Within a state, it manifests internally as supreme authority, whereas externally as independence in international relations, with forms including de jure, de facto, and popular sovereignty. Ultimately, sovereignty remains the essential foundation of statehood, embodying both authority and the will of the people.

INTRODUCTION

Sovereignty is the notion of lofty, maverick might in each territory. With the passage of time, the concept of sovereignty was refined and perfected. The term sovereignty has its origins in modern political thought, but the idea dates to Aristotle, who described it as the "supreme power" of the state (Khan, n.d., p. 3). The medieval Roman jurists and civilians knew about this notion as well. But "Six Books on the Republic" by Jean Bodin was the first book to articulate the theory of sovereignty systematically (Khan, n.d., p. 3). Sovereignty is one of the most significant attributes of the state. A state cannot exist without sovereignty. Sovereignty became so important to political thinkers within a political system with the advent of the modern state system. A modern theory of the state is deemed to be superior to other associations solely due to sovereignty. Political science and international law regard sovereignty as one of the most controversial concepts because, apart from being one of the essential attributes of the state, it is also closely tied to the concepts of government, democracy, and

independence. In concise, but precise words, sovereignty can be elaborated as the free will of nation-states to choose the ruler, the mechanism in which the sovereign exercises such sovereignty, and the policies regarding their domestic and international affairs as per their liking.

Concerning the state, sovereignty has derived its roots from theological thought, specifically the idea of an apex organizing authority. Per Schmitt's dictum concerning the theology's political notions, the concept of sovereignty appears to have originated from the Latin word 'superanus' meaning supreme power (Study.com, n.d.). The French word souveraineté is the predecessor of the word superanus and has an identical meaning to that of Latin (Study.com, n.d.). The term fundamentally denotes dominance or the "ultimate power."

Moreover, the term sovereignty implies the idea that sovereignty is the exercise of absolute power to extract obedience from its subjects and to impose punishments upon those who disobey. From a political and legal horizon, sovereignty is a very contentious notion. If we put a political view towards the concept of sovereignty, then it could be assumed that sovereignty can be referred to as absolute authority or supreme dominance, i.e., supreme dominance of the crown in a monarchy and absolute authority of parliament in advanced democracies. In legal notion, the term sovereignty can be uttered as the ultimate supreme power that an institution or a person holds over a territory or group of people and against which no appeal lies i.e. legal sovereignty in the US belongs to constitutional authorities having the jurisdiction to amend the constitution, similarly, legal sovereignty in Britain belongs to the king in the parliament (Khan, n.d., p. 3). There is a connection between legal and political sovereignty, which depicts the idea that there is a force behind political sovereignty, termed legal sovereignty. As Professor Gilchrist says, the political sovereign is the totality of the influences within the state that lie behind the law (Khan, n.d., p. 3).

Likewise, the views of different jurists regarding the concept of sovereignty are as follows:

- Laski states that the "Sovereign is legally supreme over any individual or group. It possesses Supreme coercive power.'
- Burger expresses sovereignty as ultimate power, free from any dependence to command and compel obedience.
- D.F Russell defines sovereignty as supreme authority within a state, which, in terms of law, is unlimited.
- Grotius describes that Sovereignty is termed as the supreme political power and vests in the person who is not under any command.

According to Burgess, Sovereignty is that characteristic of the state which is not bound by any will or limited by any other power except by itself. (Brainkart, n.d.)

HISTORICAL EVOLUTION:

Annals of history trace sovereignty in ancient Greece. The prolific philosopher Plato was the first to give the concept of an Ideal State (Munir, n.d.). He was of the view that sovereignty is associated with the philosopher king, and Plato considered a philosopher king to be the final coordinating authority, while on the other hand, his pupil, Aristotle, viewed sovereignty as the government of one and supremacy of law, as he gave the idea of Rule of Law (Munir, n.d.). As time passed, the concept of sovereignty modified its shape. Keeping in view the concept of sovereignty, the approach of Romans, Jews, and Christians was diverse. According to Romans, sovereignty was associated with the dominion of the populace. In their view, sovereignty was associated with the principle of "majority is authority" (Munir, n.d.). In contrast to this concept, Jews were of the view that sovereignty belongs to Jehovah (the proper name of the God of Israel in the Hebrew Bible/Old Testament), while Christianity believed in the sovereignty of the Trinity (the unity of Father, Son, and Holy Spirit in one Godhead) that remained intact till the Middle Ages. The establishment of kingdoms of Spain, France, England, and a few parts of Germany brought a revolutionary change in the definition of sovereignty, and from this period

onward, kings were considered absolute sovereigns.

The modern concept of sovereignty, according to English political thinkers, the work of Jean Bodin and Hobbes, is of great significance in this regard, and they are considered the first writers regarding the modern concept of sovereignty (Britannica Editors, 2026). Later in the 19th century, the notion of sovereignty was thoroughly and completely stated by Austen. With the passage of time, different jurists shared their thoughts on this very topic, but the major names that contributed to this notion are Bodin, Hobbes, Austin, and Bentham. In a nutshell, Western political thinkers viewed sovereignty as the authority of the superior person.

The abovementioned view transformed when the concept of democracy, federalism, and constitutionalism were introduced, and these three, after making an association with the notion of sovereignty, completely transformed its definition. The modern approach towards the concept of sovereignty is associated with the governance of people that is to be practiced through their representatives, to whom the people surrendered their will.

In contrast to the English concept of sovereignty, if we talk about the Islamic approach towards sovereignty, the contribution of Muslim jurists based on Islamic ideology is based on the Oneness of ALLAH, and the concept of sovereignty is different than that of western. Here, sovereignty belongs to ALLAH, and man is HIS Vicegerent who exercises this power within the corners of Islam following Islamic laws. Three of the major names having remarkable contributions in the field of sovereignty are Ibn-Abi-are-rabi, Alfa Rabi, and Ibn-e-Khaldun (Munir, n.d.). The prism of Islam sees that sovereignty is the complete submission to the will of God and all authority belongs to God alone, as mentioned in the holy Quran that 'Authority (al-Hukm) belongs to God alone' (Q 12.40). But God delegated HIS authority to man and chose man as HIS vicegerent, as mentioned in the holy Quran and the preamble of our constitution of Pakistan 1973 also expresses this thought as the concept of sovereignty over the entire universe belongs to Allah alone and the authority to be exercised by the people within the limits prescribed by Him in a sacred trust.

Whether it is Islam or the Western approach, the ultimate modern concept regarding the notion of sovereignty is that People are the core upon whom sovereignty vests. And under both English and Islamic horizons, people are the ultimate sovereigns.

LEGAL DEVELOPMENT OF NOTION OF SOVEREIGNTY:

As far as the legal development of the notion of sovereignty is concerned, this debate not only has a very wide origin but also has contrasting approaches, one is associated with the self-governance that varies from state to state, while other forms of legal development towards the concept of sovereignty is universal and is expressed globally. At the intercontinental level, the debate of legal development regarding the concept of sovereignty has diversity. During the journey of its legal development in different eras, under the interpretation of different jurists and theorists, and in different verdicts, judgments, and case laws, the concept of sovereignty is discussed in vast and diverse domains.

If we talk about the legal development of the notion of sovereignty at an international level, this begins with the interpretations of sovereignty by Jean Bodin who interpreted sovereignty as absolute, indivisible, perpetual, inalienable, and imprescriptible (Kumar, n.d.). This thought was later acknowledged as well as endorsed by the Treaty of Westphalia in 1648 (Kumar, n.d.). This treaty revolutionized the concept of sovereignty by developing two principles i.e. supremacy of state with in its own territory and non-intervention (Oxford Public International Law, n.d.). In the 18th century, the work of Jean-Jacques Rousseau cannot be ignored, who advocated popular sovereignty and viewed sovereignty as inalienable. The 19th century is the century of major legal development in the concept of sovereignty, as the beginning of the 19th century brought Vienna Congress of 1815 that served as a step towards the development of international law that further enabled a state to. Maintain its sovereignty against

all others (Oxford Public International Law, n.d.). The 20th century's first part gave emergence to upgrade the image of a model of state sovereignty against all others. As with the beginning of the 20th century, international law emerged as more developed and modified, so it defined the concept of sovereignty as sovereignty is the exercise of power by a state or we can say that the 20th century expressly embarked on the upgraded approach of sovereignty as state sovereignty. The permanent Court of International justice PCIJ in its Wimbledon Decision stated one of the attributes of state sovereignty i.e., the right of a state to enter international engagements, this was then confirmed by PCIJ in 1927 in its Lotus case (Oxford Public International Law, n.d.). Another development was the Montevideo Convention 1933 which enlisted sovereignty as one of the most significant attributes of statehood and state having no attribute of sovereignty could be called some association or territory occupied by a union of people but it could not be given the status of state (Colombo & Hurd Law, n.d.).

Kelson and Schmitt, the two leading legal theorists of the 20th century (JSTOR, n.d.). Carl Schmitt, a German legal theorist in his work political theology (1922) wrote four chapters regarding sovereignty and there he proposed a theory of sovereignty which expressed the idea that there is no functioning legal order without sovereign authority, whereas, Hans Kelsen's main crux of his theory in his publication Reine Rechtslehre, was published in two editions, first in 1934, and second in 1967 (Wikiquote, n.d.). According to Kelsen's pure theory of law, sovereignty must be obeyed and must not be challenged while Law is the norm that stipulates sanction (SSRN, n.d.). As already discussed, the legal development of a notion of sovereignty took a great pace in the 20th century at the intercontinental level.

At an international level, another area from which the concept of sovereignty is viewed was territorial sovereignty, territorial supremacy, and integrity as a matter of state sovereignty is widely discussed as a principle and is developed legally with time. As a matter of international law, geographic sovereignty is a fundamental principle and every nation must respect the territorial sovereignty of its neighbors. In addition to their territorial sovereignty, states have the right to have control over their infrastructure, including activities associated with their infrastructure. Violations of territorial sovereignty would occur when an infringement on the territorial integrity of the affected State, or if it interferes with or usurps its inherently governmental functions.

The Corfu Channel Case is also associated as one of the major developments where the territorial sovereignty of the state was given acknowledgment, As in the Corfu Channel Case (1947-1949) the ICJ stated that respect for territorial sovereignty is an essential foundation for international relations between independent States (CCDCOE, n.d.). Various other cases that have a contributory role in legal development regarding the concept of territorial sovereignty and other aspects of sovereignty are:

PCIJ judgment in Lotus case that principled the concept of territorial sovereignty, Arbitral Tribunal in Palmas Case stated state's sovereignty's independence concerning other states. Similarly, ICJ in the Nicaragua case talked about non-intervention in other states' sovereignty (CCDCOE, n.d.).

Precisely, the concept of sovereignty attained progress as time passed and developed as a doctrine in diverse domains. The United Nations Declaration of 1970, while talking about the constitutive ingredients of sovereignty stated that From a legal perspective, all states are equal; every state has an inherent right to sovereignty; every state has the free right to establish its political, social, economic, and cultural system; every state is under liability to respect the identity of other states; States are required to comply with their international obligations fully and in good faith; to live in peace they must maintain their territorial integrity and political independence (Kumar, n.d.).

In short, the notion of sovereignty is a comprehensive, unending debate that has seen many ages, eras, and progress phases, and is still transforming day by day and is undergoing an unending reforming procedure.

HOW THE DEVELOPMENT OF THE SOVEREIGNTY NOTION INFLUENCES THE PROGRESS OF THE SOVEREIGNTY CONCEPT IN DIFFERENT COUNTRIES:

Sovereignty is a broad concept that has been modified and reshaped over time at both the national and international levels. Aristotle's view of sovereignty as the government of one and the supremacy of law; Austin's view of sovereignty as the authority of a superior person; J. J. Rousseau's advocacy of popular sovereignty; A. V. Dicey's concept of parliamentary sovereignty; and the work of Muslim jurists such as Al-Farabi, Ibn-Abi-al-Rabi, and Ibn-Khaldun in the field of sovereignty, along with the Islamic conception of sovereignty belonging to Allah alone and authority to be exercised by the people within the limits prescribed by Him in a sacred trust, represent different transformations of the concept of sovereignty from ancient times through various political, legal, Western, and Islamic approaches and notions. But this development of sovereignty at the international level greatly influenced the concept of sovereignty that was being nurtured in different regions from country to country.

At the country level, monarchies, systems of governance based on hereditary descent, were prevalent, and sovereignty belonged to the Crown or the King. These systems declined and disappeared in the 19th and 20th centuries, and two chief forms of governance, 1. Dictatorship and 2. Constitutional Democracy emerged, each with a clear image of governance in different countries. Although these two concepts have historic roots, from ancient tyrants and tyrannies in Greece and Sicily to the relics of dictatorship in history, the ancient Greeks are credited with creating the very first democracy in the 5th century BC in the city of Athens. These forms showed their polished faces in the 19th and 20th centuries, and the concept of sovereignty progressed in essence, becoming associated with these forms of governance. The international development of the notion of sovereignty also contributed to this progress.

When discussing the United States, in Latin America, after the collapse of effective central authority in the newly independent nations, recently freed from Spanish colonial rule, various dictators (caudillos or self-proclaimed leaders) arose who tried to establish their control. Examples include Antonio Lopez De Santa Anna in Mexico and Juan Manuel in Argentina. In 1792, the question of state or popular sovereignty, influenced by the international development of popular sovereignty articulated by J. J. Rousseau, arose in the Chisholm vs Georgia case before the Supreme Court of America, where the people were declared sovereign. This brought an ultimate change in America, and popular sovereignty now prevails (Britannica Editors, 2026).

Similarly, in the UK, there was Austin's idea of sovereignty that was prevalent, and entire sovereignty belonged to the King, but after the war of authorities began between Monarch and Parliament, A. V. Dicey's concept of Parliamentary sovereignty dominated in the end. At present, there is parliamentary sovereignty, and parliament has the supreme force there.

In contrast to the UK and USA, if we throw light on Pakistan and India, then both are democratic countries with constitutional sovereignty in their system of governance that have their origins from the influential conception of constitution given by intercontinental jurist Aristotle who wrote that a constitution "is the way of life of a citizen-body." According to Aristotle, citizens were "all who share in the civic life of ruling and being ruled in turn." Influenced by Aristotle's conception of Constitution associated with the ancient concept of democracy, India is the world's largest constitutional sovereign democracy, with the most comprehensive Constitution in the World.

In addition to this, if we talk about Pakistan, it was also a part of subcontinent which was separated in 1947 in the name of ideology of two-nation theory and Islam, so, Pakistan has the system of governance derivative of and identical to that of India's but the sole difference is that in addition to both doctrines and systems (Constitution and Democracy), that has reliquiae from ancient concepts of Aristotle and Greeks, has its association with principles of Islam where absolute Sovereignty belongs To Allah almighty alone and the authority to be exercised by the people within the limits prescribed by Him in a sacred trust. In a

nutshell, this concept of sovereignty belonging to Allah alone and this exercising of authority by people and having a constitution as supreme document are the amalgamated prevailing concepts influenced by intercontinental concepts and work regarding notion of Sovereignty and form of governance proposed by Aristotle, Al-Farabi, Ibn-e-Khaldun and Ibn-Abi-Al-Rabi.

The ultimate purpose of all this debate is to convey the idea that the concept of sovereignty not only developed at the cosmopolitan level, but it also made its development as well as influenced the progress of the concept of sovereignty from country to country scattered in various regions, and this debate as well progress continue.

ATTRIBUTES OF SOVEREIGNTY:

According to Doctor Garner, following are the six attributes of sovereignty which are as follow:

Permanence: No matter when a state ends, sovereignty continues unbroken.

Exclusivity: State authority is unsurpassed within the state by any other power.

Comprehensiveness: A state's sovereignty extends to all persons, associations, and objects within its borders, except for those it has voluntarily waived the right to exercise its authority over.

Inalienability: An attribute of a state that allows it to renounce any of its essential elements without harming itself.

Absoluteness: A sovereign's power is a primary power that has no source. No other body determines the nature and extent of that power as a matter of law.

Indivisibility: Sovereignty is indivisible. Division of sovereignty results in the destruction of sovereignty.

(YouTube, n.d)

THEORIES OF SOVEREIGNTY

Two theories make a debate about the notion of sovereignty with completely different points of view. The theories are as follows:

Monistic Theory: Regarding the concept of sovereignty, monistic theory was thus devised by John Austin. This theory is also known as Single or Non-pluralistic or Absolute or John Austin's theory of sovereignty (Studocu, n.d.). According to this theory, if a determinate human superior not in the habit of the same superior obedience but gets the usual obedience from the greater part of the given society, then that society is political and free-spirited, and that sovereign is the determinate human superior.

Salient Features of this theory:

- There is a determinate human superior in every state.
- The human superior is not under the command of any other superior.
- The whole society is under imposition to follow the directions of a determined human superior.
- The law is what the human superior says.
- There is punishment for the man who violates his command.
- A society that contains a determinate human superior is called a political society and it's free from any outside involvement.

Pluralistic Theory: Pluralism opposes the absolute notion of sovereignty, or we can say that pluralistic theory was a counter to John Austin's theory of sovereignty. Professor Laski states that the state is but one of several forms of associations, and by comparison, it has no pretension superior to the allegiance of the individual (Slideshare, n.d.).

Salient Features of this theory:

- Like different associations, the state is an association.
- Sovereignty is externally and internally limited.

In a nutshell sovereignty of states is viewed from two opposing perspectives. As the classical defense of state sovereignty, monism advocates its absolute, determinate, and indivisible nature. In contrast, the second, called pluralism, asserts the limited nature of state sovereignty that must be shared with a host of other associations that are as natural and indispensable as the state.

ASPECTS OF SOVEREIGNTY:

There are two aspects of sovereignty;

Internal Sovereignty:

Internal sovereignty means the final legal authority over obedience in every independent state that rests with some individuals or a group of individuals. Individuals or associations of individuals within a state are subject to this sovereignty's absolute authority.

Professor Harold Laski gave his remarks regarding this site: "It issues orders to all men and all associations within that area; it receives orders from none of them. It will be subject to no legal limitation of any kind. What it proposes is right by the mere announcement of intention" (PoliticalScienceNotes, n.d.).

External Sovereignty:

External sovereignty means A state is independent and does not have to answer to any other authority. It is the liberty of every independent State to decide its foreign policy and to join whatever power bloc to which it wishes to belong. An independent state is not subject to interference by any other state. Simply, we can devise the notion of external sovereignty as the national freedom of a state.

Professor Laski gave his idea to this notion, "The modern state is a sovereign state. It is, therefore, independent in the face of other communities (PoliticalScienceNotes, n.d.).

TYPES OF SOVEREIGNTY

Although various types of sovereignty and concepts are prevalent here, we shall only discuss some major types that are as follows:

- **Dejure and Defacto Sovereignty**
- **Popular Sovereignty**

A bird's eye view of de jure sovereignty is that it is the independent rule of one over its country by law. This is the belief of the government that it is its right to have its territory, people, finance, and military under its control. The government of that specific country can contribute and take appreciable measures for its citizens. This includes managing finance, making rules and regulations, and all other matters to govern the citizenry of the country. De jure sovereignty can also be termed legal sovereignty. The determination of de jure sovereignty depends upon the relationship of the government with its citizenry and the analysis of the government internally.

On the other hand, de facto sovereignty is not associated with de jure sovereignty, or we can say that it has no concern with the existence or nonexistence of de jure or legal sovereignty. The de facto sovereignty of one country is determined by another in the following ways. Firstly, it is to be analyzed whether leadership has been given power by the people in that country and is respected by the public. Secondly, whether the leadership has the authority to make a trade and supervise and control markets. Last, of all, whether the leadership has the jurisdiction to implement its legal principles and regulate all the functions of the state.

Lord Bryce gave the idea that a de facto sovereign "is the person or a body of persons who can make his or their will prevail whether with the law or against the law; he or they is the de facto ruler, the person to whom obedience is paid" (PoliticalScienceNotes, n.d.). De facto sovereignties have been observed throughout history. When Oliver Cromwell dismissed the Long Parliament, he became de facto sovereign. Having thrown the Directory to the ground, Napoleon became the de facto sovereign. If we talk about our Pakistan leadership, Pakistan became a de facto monarchy after Ayub's military coup. In the aftermath of the overthrow of Ayub, Yahya Khan came to power with the support of the militia and became the de facto sovereign. His defeat in 1971 by the Indian army led him to hand over power to Bhutto, who was subsequently thrown from power by Zia-Ul-Haq in July 1977. He became sovereign first de facto and later de jure (PoliticalScienceNotes, n.d.).

Evidently, in this sense, the de facto sovereign is the most powerful force in a state and can exert their influence. There are, however, instances in which de facto and de jure sovereignty essentially overlap. There is a concept of popular sovereignty.

Power derived from the masses is usually referred to as popular sovereignty, as opposed to power derived from a single ruler.

There is only one vote per person, and representatives of the people control the legislature, implying manhood, suffrage, and a representative form of government.

The public has supremacy in popular sovereignty. Popular sovereignty has long been used by historians of political science as an argument against monarchical absolutism. In the opinion of Dr. Garner, "Sovereignty of the people, therefore, can mean nothing more than the power of the majority of the electorate, in a country where a system of approximate universal suffrage prevails, acting through legally established channels to express their will and make it prevail" (PoliticalScienceNotes, n.d.).

CONCLUSION

Various events of history at different times and political and legal theories developed the notion of sovereignty. Moreover, terms like authority, state government, constitution, etc., were made coherent by and are integrated by the notion of sovereignty. Modern World embellishes people as sovereign, whereas Islamic civilization rests Sovereignty with Allah and man as HIS vicegerent who exercises power on HIS behalf, and these are elected people who exercise ALLAH's will. To conclude the debate, it would not be wrong to say that sovereignty is the soul of a state, and people are the ultimate sovereigns.

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