8. The End of State Sovereignty? – From a Chinese Perspective

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1. Introduction

State sovereignty refers to a country’s inherent power of independently dealing with its internal and external affairs. Sovereignty is a state’s inherent trait, which shows its basic status in international law. However, the concept of sovereignty has been controversial since its birth. Especially after the end of the Cold War, it has become an important trend among Euro-American theorists to weaken state sovereignty or even deny its very existence, hence leading to various nihilist views on state sovereignty.1 This chapter is devoted to a thorough exploration of the question whether state sovereignty has really come to an end or not. It is divided into three parts: the first part focuses on various nihilist views on state sovereignty; the second part clarifies that state sovereignty is still the core of modern international law, given the fact that the principle of state sovereignty is not only recognised by international law but is also reflected in the entire international legal system; the third part points out that state sovereignty is not a mythology, instead state sovereignty theory is a reflection of the objective reality of international relations and that the view on state sovereignty will develop as time goes on.

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1 In 1994, the topic discussed by the fourth group at the American Society of International Law’s 88th annual meeting was “The End of Sovereignty?”. See Theme of Panel IV, 88th Annual Meeting, 1994 ASIL Proceedings, p. 71.
2. Nihilist Views on State Sovereignty

The concept of sovereignty has suffered from all sorts of attacks, criticism and distortion since its first formal introduction by Jean Bodin. Sovereignty has been denounced as an “archaic, useless, misleading and dangerous” political dogma. Harold Joseph Laski, a British political scientist, claimed that since sovereignty does more harm than good, we should establish a “world without sovereign states”, and that the rational life among states will be impossible if state sovereignty is not eliminated. Philip Kerr, a British international political theorist, also said that “[t]he fundamental cause of war” was the division of humanity into separate sovereign states, while sovereignty was groundless in an interdependent world.

Before World War I, no international lawyer theoretically had denied the concept of state sovereignty. After World War I, French scholar Leon Duguit applied his “doctrine of social solidarity” in international relations, and criticised the concept of sovereignty by asserting its incompatibility with international law. But, according to British scholar C. Howard-Ellis, sovereignty is nothing “but a mystic sentiment expressed

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5 According to Leon Duguit, sovereignty means a state’s absolute authority, which allows the state to act without any restraints, except those accepted by itself voluntarily, in its foreign relations. However, as a matter of fact, with the development of international law state acts are still under restraints; this phenomenon is increasingly hard to explain because if a state’s will was sovereign, it should not be restrained by any compulsory rules. Therefore, a choice between state sovereignty and international law must be made, either to give up sovereignty or to deny the binding force of international law. See Zhou Gensheng, International Law (Vol. I) (The Commercial Press, Beijing, 1981) pp. 178–179.