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# State Sovereignty: Concept and Conceptions

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## Abstract

The terms "sovereignty" and "state" are used very loosely in scholarly literature. "State sovereignty" is central to many scholarly disciplines and controversial real case scenarios, including territorial disputes; pandemics; arms, drug and human trafficking; terrorism; and the flow of refugees. Unsurprisingly, when academics apply the term "state sovereignty" disagreements can be expected. This paper reviews a series of conceptions pertaining to "state sovereignty" and proposes a shift from the current unidimensional understanding to a multidimensional approach. This is because state sovereignty is an intricate concept that includes several pluralisms, such as agents and the roles they play in their interrelations (e.g. individuals, communities and states), contexts (i.e. domestic, regional and international), realms (e.g. factual, normative and axiological) and modes of existence (i.e. ideal, natural, cultural and metaphysical elements and features). Hence, this paper argues that different understandings on state sovereignty are not due to ontological discrepancies but relate to either epistemological choices because different scholars and scientific disciplines are interested in a particular pluralism pertaining to state sovereignty rather than the concept as a whole, or to axiological choices tightly linked to individuals, communities and/or states often ignored or undisclosed views and perceptions. By applying a multidimensional approach and taking into account two variables—time and space—the paper explains why the different conceptions on state sovereignty are connected with value judgments that still refer to the same concept applied to the object or subject of study (ontology) but from particular epistemological presuppositions often hidden, ignored or neglected.

**Keywords** State sovereignty · Absolute sovereignty · Limited sovereignty · Unlimited sovereignty

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## 1 Introduction

State sovereignty has been (and is still being) questioned. Some have maintained that sovereignty is fragmented [1, pp. 1–25]. Similarly, in international relations, sovereignty has been (and still is) regarded as one of many myths [2, 3, Introduction]. Domestically, sovereignty may be seen as indivisible or concentrated in the hands of one individual, or as dispersed throughout the social body [4, p. 26]. Sovereignty may arguably be the machine behind imperialism [5, p. 87]. Alternatively, it may be transcendental and representational [5, p. 84]. It has been argued that the end of history is approaching, the era of conflicts has finished, and sovereign power is expanding globally [5, 6, p. 189]. According to this belief, the evolution of human society is not open-ended; the final destination has been reached [6, p. xii], with international relations being characterized by a world composed of liberal democracies [6, p. xx]. Conversely, it has been argued that the world is still "in transition" both in regard to domestic and international realities, and that myths, notions, and practices relating to sovereignty still play a central role. Even taking Fukuyama's central thesis to the extreme and assuming that Kojève's "universal homogeneous state" [7] is not a nominal expectation but the current realpolitik, the importance of sovereignty domestically and internationally is nevertheless evident. Clearly, these are different conceptions on sovereignty. However, regardless of their peculiarities, what do these conceptions mean when they refer to state sovereignty?

The aforementioned views stem from different disciplines such as legal and political sciences and international relations, and they define and characterize the concept of "sovereignty" under different assumptions and justifications.[1] The concept of "sovereignty" may refer to, for example, supreme authority or power; a body, a person or an institution; its inward or outward views; and several other issues.[2] In a similar way, different disciplines refer to the concept of "state" and its characterization in different ways. For instance, public international law stipulates that: "The state as a person of international law should possess the following qualifications: (a) a permanent population; (b) a defined territory; (c) government; and (d) capacity to enter into relations with the other states" [15, Art. 1]. In turn, political science characterizes the state by including notions that incorporate the use of force, whereas others consider that the state is the realization of morality and hybrid understandings that combine both force and morality.[3]

Clearly, the previous paragraphs refer to different concepts and conceptions of "sovereignty" and "state."[4] In short, for this paper, concepts are public and intersubjective with a certain normative aspect. In turn, a conception is associated with the concept which one—e.g. agents such as individuals, communities and states and scholarly disciplines like legal and political sciences and international

[1] For a detailed account on "sovereignty" see the Author's work [8], Chapter 3 and [9], Chapter 2. See also [10], in particular p. 148, fn. 10 and [11–14], and others.

[2] For a more detailed analysis of each of these issues see the Author's work [9], Chapter 2.

[3] For a more detailed understanding of these views see [16], Chapter 1.

[4] For further details about the distinction between concept and conception, including views, see [17].

relations—takes to be analytic to or constitutive of the concept. For example, for different agents and different scholarly disciplines, the concept of "state" may encompass territory, population, government and law. But, a purely legalist theory of state like Kelsen's may prioritize law and, consequently, stipulate the state "is the personification of a legal order" [18, p. 197]. Differently, Weberianism as a political theory may define the state as a political community characterized as a relation of dominance of men over men [19, 20]. There may be a further distinction between conception and view depending on whether the former is conscious or not. However, this paper uses the terms conception and view as synonyms.

From these first statements, it is relatively easy to acknowledge that when scholarly literature uses the terms "sovereignty" and "state" they are applied very loosely, either by referring to their concepts or conceptions. A term like "state sovereignty" is central to many scholarly disciplines and controversial real case scenarios including territorial disputes; pandemics; arms, drug and human trafficking; terrorism; and the flow of refugees. Unsurprisingly, therefore, disagreements can be expected when academics apply the term. However, are these disagreements ontological, epistemological or axiological? In other words, are these real disagreements or tangential reasoning?

A key objective of this paper is to question what we exactly mean, then, when we refer to "state sovereignty." More precisely, the paper will review a series of conceptions pertaining to "state sovereignty." To sketch an answer to this question, this paper is divided into four parts. The first part will explain how both a broad notion or a narrowly defined term and their use influence assumptions and beliefs. Historical examples of different uses related to "sovereignty" will bring evidence of these assumptions and beliefs. Furthermore, examples of the concepts of "sovereignty" and "state" and different conceptions pertaining to legal and political sciences will show their different bases. In light of these accepted views stemming from legal and political sciences, "state sovereignty" will be reviewed to clearly show how these different conceptions relate to the same concept. Thereafter, the second part will propose a shift from the current unidimensional understanding to a multidimensional approach on state sovereignty. This is because state sovereignty is an intricate concept that includes several pluralisms such as agents and the roles they play in their interrelations (e.g. individuals, communities and states), contexts (i.e. domestic, regional and international), realms (e.g. factual, normative and axiological) and modes of existence (i.e. ideal, natural, cultural and metaphysical elements and features). Hence, different understandings of state sovereignty do not relate to ontological discrepancies but involve either epistemological choices because different scholars and scientific disciplines are interested in a particular pluralism pertaining to state sovereignty rather than the concept as a whole, or axiological choices tightly linked to individuals, communities and/or states often ignored or undisclosed views and perceptions.

The next step, the third section, will bring together two of the variables that have influenced how "state sovereignty" and its different pluralisms are defined and characterized, that is time and space. By the application of the multidimensional approach created by the author and taking into account these two variables—i.e. time and space—the final section explains why the aforementioned conceptions on

state sovereignty involve value judgments that still refer to the same concept applied to the object or subject of study (ontology) but from particular epistemological presuppositions that are often hidden, ignored or neglected.

## 2 The Historical Evolution of "State Sovereignty"

Any term or expression may result in several possible interpretations including that of the text itself, the one that the authors intended (that may not be necessarily the one they created), and the one apprehended by the reader. Additionally, there are variables such as time, space and translation that may result in several other interpretative outcomes. To illustrate the point, the following paragraphs will very briefly consider how the notion of "sovereignty" has been historically perceived in order to bring evidence of how these interpretations have shaped the current views pertaining to scholarly disciplines such as legal and political sciences and international relations.

Whether the concept of "sovereignty" existed in the early years of civilization or not, the great thinkers in Ancient Western philosophy applied the notion to agents, bodies and institutions such as God, Emperors, Kings, nobles, people, law, and city-states.[5] These theories, bodies of literature and resultant assumptions, beliefs and justifications included elements and features from different normative systems such as law, morality and religion that suggest on the surface what seem to be unlimited and absolute conceptions not bound by time or space. Interestingly, despite their particularities, all these conceptions accepted that sovereignty had theoretical and empirical limitations.

Indeed, these early uses of the concept of "sovereignty" pertaining to agents as different as individuals and communities pose the question of whether sovereignty is possessed only by states or whether it may be also possessed by an institution within a state or accept other forms such as the Catholic Church's claim to sovereignty, the sovereignty of the European Union and its member states, or Aboriginal sovereignty. Arguably, these cases suggest there may be sovereignty without a state. However, as the author has expressed elsewhere, these peculiarities have to do with very specific elements, features and/or the spatial and historical contexts.[6] Leaving aside exceptional cases for future discussion, the brief historical references that follow focus on sovereignty as possessed only by states.

The early understanding of "sovereignty" as the highest authority and/or the superior power that incorporated law, morality and religion changes in medieval times.[7] With disputes between individual and group interests such as the clergy, the kings

[5] For a more detailed account on sovereignty and the Ancient world see the Author's work [21].

[6] See, for example, the Order of Malta [22]. In what matters here: "The limitations on the sovereignty of the Order of Malta which undoubtedly exist result mainly from the absence of State territory and citizens […]. These limitations, however, are not such as to be able to negative its sovereignty. Its sovereignty exists in law and is determined by its own legal order […]".

[7] For a more detailed account on sovereignty and the Middle Ages see the Author's work [23].

and the nobles, it is unsurprising that there are several factors that contributed to a shift in how "sovereignty" was perceived. These factors included: (a) theories like those of Bodin and Hobbes; (b) the increasing power of the "people;" (c) emphasis on individual rights; (d) separation of the legislative and the executive powers; and e) international agreements.

As "sovereignty" merged with the notion of "state," the bridge between the medieval period and modernity is the move toward the notion of "state sovereignty" [24]. Often overlooked, this merger and the resultant notion are historically conditioned. The aforementioned theories and those which followed—e.g. Kant, Hegel, Kelsen—influenced the creation of new national legal and political orders with conceptions of sovereignty that still included claims to absoluteness despite its actual and theoretical limitations. Domestically, there is a proliferation of Constitutional Republics that include separation of powers and the checks and balances system. Regionally and internationally, organizations and legal and political systems are created that encompass intergovernmental and supranational organs, rules and procedures.[8]

Clearly, regardless of the particular term used in a given historical period, the notion of "sovereignty" implies both power and authority. Depending on the degree of concentration or dispersion of power or authority, we may refer to the "state" or not. There is no single legally stipulated concept of "sovereignty." However, there is a vast array of conceptions about sovereignty.[9] I include two definitions of "sovereignty" below that I have previously used in the discussion of this concept. The first, Bodin's own notion, is important because of its pervasive influence in disciplines such as legal and political sciences and international relations and resultant law and policy domestically, regionally and globally. The second represents the kind of definition people at large could currently find. Sovereignty is:

> the most high, absolute, and perpetual power over the citizens and subjects in a Commonwealth... [29]
>
> A Supreme authority in a state. In any state sovereignty is vested in the institution, person, or body having the ultimate authority to impose law on everyone else in the state and the power to alter any pre-existing law….In international law, it is an essential aspect of sovereignty that all states should have supreme control over their internal affairs... [30]

Different from sovereignty, public international law stipulates a definition of the concept of "state" in article 1 of the Montevideo Convention of Rights and Duties of States that declares: "The state as a person of international law should possess the following qualifications: (a) a permanent population; (b) a defined territory; (c) government; and (d) capacity to enter into relations with the other states" [15].

[8] For details about intergovernmentalism and supranationalism see the Author's work [25], Chapter 5. For further reading see [26], Chapters 2 and 3, [27], Chapters 2 and 3, [28], Chapters 2 and 3, and many others.

[9] For an extensive analysis on different views, conceptions and historical evaluations of "sovereignty" see the Author's work [9], Chapter 2. See also [11–14], and others.

From the legal and political standpoints, therefore, it is possible to identify that a state requires three necessary elements in order to exist: territory, population and government (or government and law).[10] Bringing together the aforementioned concepts and conceptions it is possible to stipulate that state sovereignty involves people (population) living in a space of land, water, etc. (territory) who have a common government that can exclusively create and apply the highest law for them in that territory.

There are at least two realms intertwined in the views concerning state sovereignty so defined: that of the norms and that of the facts. For instance, politically, state sovereignty could be identified as competence or ability to take decisions while legally it may be viewed as law-making power. These views are not mutually exclusive.

In legal science, for example, MacCormick accepts that sovereignty is both a legal and political concept [37, p. 127]. Legally, sovereignty refers to the unrestricted law-making power [38, p. 28, 37, p. 127]. Politically, sovereignty "is interpersonal power over the conditions of life in a human community or society" [37, p. 127]. The legal notion depends on its political counterpart because those holding power issue the applicable rules concerning a population and territory [37, p. 128]. In turn, in political science, Krasner too accepts that sovereignty is both a legal and political concept. More precisely, he acknowledges: (a) Domestic sovereignty (referred to as the organization of public authority within a state and the level of effective control exercised by those holding authority); (b) Interdependence sovereignty (referred to as the ability of public authorities to control trans-border movements); (c) International legal sovereignty (referred to as the recognition of states or other entities); and (d) Westphalian sovereignty (referred to as the exclusion of external actors from domestic authority configurations) [39].

Other infamous contemporary scholars of law and politics, such as Schmitt and Kelsen, despite their apparent differences, seem to be in agreement. More precisely, on the surface, their theories seem to either reject the relevance of normative-legal sovereignty or factual-political sovereignty. However, a closer look reveals that although they may give a more central role to norms or facts, they accept a certain degree of sovereignty's normativity and facticity. For instance, Schmitt's political doctrine on decisionism characterizes sovereignty as the highest power [40, pp. 6, 17]. More specifically, a sovereign has the power to make a certain kind of exception [40, p. 5, 41]. It is not that Schmitt discards the normativity in sovereignty. However, in extraordinary or exceptional situations, the sovereign might suspend the law—i.e. internal sovereignty. In a similar vein, when referring to the state and its interrelations with other agents—i.e. external sovereignty—Schmitt distinguishes between friends and enemies [40, Introduction]. If the state surrenders to an enemy, therefore, it gives up its sovereignty. Contrary to Schmitt, Kelsen characterizes

[10] For a view of state as composed by population, territory, government and law see ref. [31], in particular Chapter 2. See also [32–36], and many others.

sovereignty[11] by referring to the highest law in a territory. For this view, the state personifies the legal order [43, p. 197]. Interestingly, even for an extreme normative state sovereignty position such as Kelsen's, facts are still relevant. According to Kelsen, a rule will be valid only if the system it belongs to is effective as a whole. The view that efficacy is a condition of validity might of course be treated as dogma [43, p. 42]. But this is a separate discussion. It is worth pointing out, however, that Kelsen is *not* claiming that validity is nothing other than efficacy,[12] but rather that efficacy "is a condition of validity; a *condition*, not *the reason* of validity" [43, p. 42] (emphasis added).

This brief account has shown that at different points in history, sovereignty was intertwined with empirical and supra-empirical agents such as God, individuals, groups, communities and states. Indeed, at different points in history sovereignty was "received" or perceived in different ways. Despite their individual peculiarities, in all cases, sovereignty had to do with the power and authority, either absolute or limited, to bind agents' behaviors to norms. Unsurprisingly, state sovereignty has kept some of these traits that were historically conditioned. On these bases, the next section will propose a shift in the way we currently perceive sovereignty (arguably, in a fragmented way) that should enable a more comprehensive understanding of its intricacy.

## 3 What if? A Dimensional Shift

A unidimensional analysis only seeks to explore a fragment of the object or subject of study in question. From there, while a unidimensional understanding is interested in the way in which a particular scholarly discipline "thinks" about an object or the structure of that "thinking," a multidimensional view is based on the object or subject of study itself and the many pluralisms that interrelate within and without. Consider these two statements: "2 + 2 = 4" and "all metals conduct heat." A unidimensional view would reduce both statements to the same formula "S is *p*," while a multidimensional understanding acknowledges them as different, the former being intellectual intuition and the latter being an explanation or description. In that sense, unidimensional analysis is a logic of classes (analytical and related to classifications) and multidimensional analysis has to do with the different kinds of relationships associated with the object or subject of study, within and without, and its interrelations with several pluralities (synthetic and constitutive).

A multidimensional analysis is guided by the way in which the object or subject exists. For example, while objects in mathematics are ideal and not apprehensible by our five senses empirically, natural objects exist empirically in time and space. This

[11] See Kelsen's commentary in ref. [42], in particular pp. 100, 116, 121; [43], p. 383 and ff.; [44], p. 108 and ff and pp. 438–447; and [45], Chapter V, in particular pp. 107–109.

[12] See [46], p. 698. See also [46], p. 700, fn 13, and [47], p. 387, fn 83. Hughes [46] and Green [47] refer to Hart's distinction between the internal aspect and the external aspect of rules [48], p. 56.

difference in relation to the way in which objects "are" is an existential reference because it has to do with its way or mode of existence.

What if rather than understanding "state sovereignty" unidimensionally as, for example, only a legal or political concept and, therefore, only as authority or power, we acknowledged its intrinsic pluralism of pluralisms? In doing so, this section will refer to several agents that may influence and be influenced by this notion (individuals, communities and states). Moreover, these different agents have preconceptions, assumptions and beliefs that are based on factual, normative or axiological bases. By acknowledging the aforementioned pluralisms in "state sovereignty," a multidimensional view on "state" and "sovereignty" engenders an understanding of the different ways in which disciplines such as legal and political sciences and international relations apply the notion and its consequent use in issues pertaining to law and politics.

*Brevitatis causa*, the way in which each agent—e.g. individuals, communities and states—"receives" or considers state sovereignty in law and politics has to do with the notion itself, its nature and the way it is perceived or valued. This has direct implications in situations where sovereignty issues perform a central role, such as in how each population and government understands their role with regard to their membership in regional and international organizations or their positioning as challenger or challenged parties in territorial disputes. To characterize state sovereignty in law and politics, for example, as either absolute or limited, closed or open, exclusive or inclusive, depends on the choice each agent makes, e.g. individuals, communities and states, and that choice affects the way in which they interact. The author has explained elsewhere that if these agents opt to acknowledge sovereignty—i.e. axiological sovereignty—as an absolute and closed concept in fact and/or in law—i.e. factual or normative sovereignty— the choice implies, for example, exclusionary power and it follows that all other agents have a duty not to interfere [25, Chapter 2].

For example, α and β scribble lines on a piece of paper. Thereafter, α receives money from β. These facts could either mean that α and β conducted a transaction and, normatively, there may be a legal relation in a form of a "contract." However, the fact that α and β scribble lines on a piece of paper could mean a new sovereign state was born by means of a declaration of independence. Furthermore, α and β may value these legal relations (i.e. the contract or the declaration of independence) and the relevant facts positively or negatively. For example, both α and β together, or either of them individually, may think the contract or the declaration of independence and relevant facts are fair or unfair. Therein, in order to bring a common hermeneutical understanding applicable by different scholarly disciplines to sovereignty and, secondly, to use this understanding in their analyses, the following subsections will briefly reintroduce different views on sovereignty. The objective is to clearly distinguish what may be legal and not necessarily political, i.e. normative sovereignty, from what may be extra-legal and include political elements, i.e. factual sovereignty, and discern what influences the axiological decision in terms of its absoluteness or limitedness in law and politics.[13]

[13] For a detailed account on factual, normative and axiological sovereignty see the Author's work [25], Chapters 2 and 5.

### 3.1 *Factual or* de facto *Sovereignty*

A factual understanding refers to how sovereignty is. More precisely, de facto sovereignty pertains to the actual control a population or their representatives have over a territory.[14] This factual understanding accepts that sovereignty encompasses elements and sub-elements with empirical presence. This empirical presence may be most obvious when considering the sociological element in a sovereign state, that is their population. A factual comprehension about sovereignty enables the discernment between unidimensional current understandings in law and political science that perceive a population within a state as a uniform mass of people and the fact that, conversely, there are individual and group characteristics that result in several differences including gender diversity, age group, social class and caste. Moreover, as part of the multidimensional approach, a factual understanding on sovereignty enables an acceptance that, in addition to population, the other necessary requisites that according to law and political science define and characterize a sovereign state—i.e. territory and government—also encompass empirical elements and sub-elements such as territorial extension, the presence or not of natural resources and the dynamics behind political parties and pressure groups as collective agents. Arguably, the factual realm helps to explain the rationale behind sovereignty's legal and political makings.

### 3.2 Normative or de jure Sovereignty

A normative understanding refers to how sovereignty ought to be. More accurately, *de jure* sovereignty concerns two main facets: (a) internal, that implies the existence of a set of law-making and law-applying authorities (government) within a territory and in respect of a population; and (b) external, that includes, for example, recognition by peers as sole lawmakers and law interpreters with regard to a defined population and territory. Although legal and political sciences and international relations assume *de jure* sovereignty as a territorially defined concept, an actual exercise of power over the territory is not necessary. For example, despite the lack of actual control over the islands, Argentina claims to have *de jure* sovereignty against the United Kingdom over the Falklands/Malvinas.

Consider one of the necessary elements that define a sovereign state, that is its population. Normatively, at least for the normative system called law, the state's population comprises a group of individuals who comply with certain requisites in relation to nationality such as bloodline, birthplace and residence. Therein, law may distinguish a state's population according to their status as citizens and foreigners, legally abled and legally disabled individuals, adults and minors. These are normatively stipulated distinctions pertaining to internal sovereignty.

A normative understanding of sovereignty makes it possible to appreciate why scholarly disciplines like legal and political sciences appear to have disagreements in

[14] For an understanding about the distinction between de facto sovereignty and *de jure* sovereignty see [49, 50, pp. 66–70, 51, p. 72].

the way they perceive, assess and explicate territorial disputes. For example, in several cases in the Americas there are tensions that involve the interests of settlers or implanted populations and indigenous people and the legal and political constructs of "sovereignty" and "self-determination." While a unidimensional normative view may assume territorial disputes as being centered on the element "territory," a multidimensional normative view acknowledges that (a) "territory" is important; and (b) it is crucial to discern that, normatively, "sovereignty" centers on the state while "self-determination" focuses on people [52]. Therein, it should be unsurprising that in cases such as the Falkland/Malvinas Islands and San Andrés, Providencia and Santa Catalina, populations wish to exercise self-determination while sovereign states deny them that right. The disagreement between challenger and challenged agents has to do with (a) focusing the bases of their respective arguments on a different element comprising the territorial dispute, i.e. either territory or population; and (b) the way in which they perceive normatively such element.

Traditionally, a normative view on sovereignty allows legal and political sciences and international relations to incorporate in their analyses an understanding that includes territorially defined notions such as jurisdiction, borders and boundaries, and extraterritoriality. This is not enough to fully comprehend normatively territorial disputes. By incorporating the multidimensional approach, a normative understanding of sovereignty encompasses population and government because it acknowledges their *de jure* elements and sub-elements.

### 3.3 Axiological or value Sovereignty

It is how the agents in question—e.g. individuals, communities and states—understand and assess, on an axiological level, the factual and normative facets of sovereignty that may result in closed and exclusionary as well as open and inclusive views. While a factual understanding refers to how sovereignty is and a normative understanding refers to how sovereignty ought to be, an axiological or value understanding refers to how sovereignty should or could be.

Historically, there are several cases in the Americas that clearly illustrate how the axiological approach shapes agents' understandings about sovereignty, both in fact and in law, and determines the way in which these agents perceive self and others. Consider the cases of the Empires in colonial times. Among other Papal bulls, the *Inter Caetera* granted Spanish and Portuguese sovereignty over the Americas and ignored native American populations [53]. Therein, these colonial Empires could claim exclusive sovereignty over their respective granted domains. In their interrelations, they had equal footing in the sense that they accepted each other's sovereignties and consequent spheres of influences in fact and in law. Conversely, these same Empires acknowledged other agents as lacking sovereignty or, at best, if they accepted other agents had some degree of sovereignty, they were conditioned according to different levels. For instance, these times are characterized by the lack of normative acknowledgment of indigenous people as "persons" in law. If they were minimally recognized in law as "persons," their territorial claims were ignored, neglected or overridden [54, pp. 1–2].

Regardless of these and other different assumptions, beliefs and justifications stemming from individuals, communities and states and the factual, normative and axiological "sovereignties," what is "state sovereignty"? In order to answer the question, and by application of the multidimensional approach, this paper highlights that it is important:

- To discern clearly between agents, that is individuals, communities and states. Therefore, regardless of the way in which the concept is "received" by different agents, state sovereignty only refers to one kind of agent, i.e. states.
- To distinguish the roles that state sovereignty allows this kind of agent to play. By application of game theory, there are four different kinds of players: hosts, participants, attendees and viewers. "Hosts" are necessary players in any interrelation because without them there is no bond, i.e. they have a colorable claim[15] and can take part in the interaction. "Participants" are not necessary players because, regardless of their colorable claim, their ability to participate is conditional upon the hosts' acceptance. "Attendees" are not necessary players because, regardless of their colorable claim, hosts do not accept them or simply ignore or reject them. "Viewers" are not necessary players and are not part of the interrelation because they do not have any colorable claim. Therein, for example, sovereign states, according to current understandings in legal and political sciences and international relations, are "hosts." If they acted in any other role—i.e. as participants, attendees or viewers—they would be something else, such as a colony, a pseudo-, a quasi- or a failed-state.
- To accept that state sovereignty influences and is influenced by the domestic, national or local context; regional context; and international or global context.
- To consider that state sovereignty refers to different realms and there may be normative, factual or axiological state sovereignty.
- To take into account that state sovereignty encompasses different kinds of elements and features, i.e. ideal, natural, cultural and metaphysical.

Therefore, a narrow account of state sovereignty may mean the exclusive authority within a defined territory to make and apply rules to a defined population at a given time. Yet, another narrow account of state sovereignty may mean the exclusive power to exercise the monopoly of force in order to enforce the relevant applicable norms in that territory and to particular individuals, communities and states. In turn, a broad account of state sovereignty may refer to the power and authority to make and apply norms, whether or not that power and authority are exercised by individuals, communities or states.

These accounts on state sovereignty include different expressions such as "rules," "norms," "power" and "authority." While a norm may imply different normative systems such as law, morality and religion and, therefore, may have an empirical and supra-empirical origin (e.g. a metaphysical normative authority such as God), a rule

[15] For the notion of colorable claim see the Author's work: [25], Chapter 7; [8], Chapter 4; and [9], Chapter 6.

refers only to norms that are legal in nature [55].Similarly, whether state sovereignty is a form of authority or power or both deserves further precision. The following quotation clearly illustrates this point:

> Is sovereignty independence? Is it autonomy? The first is a notion of authority and right, but the second is a notion of power and capability. Historians, international lawyers and political theorists tend to operate with the first concept. Political economists and political sociologists tend to employ the second concept. [38, p. 2]

This statement suggests a different use depending on scholarly understandings. However, language can play an important part. English political theory distinguishes between power and authority. For instance, while "power" may indicate the ability to have one's commands obeyed, "authority" may refer to the existence of a sense that it is (or is usually) right to obey these commands. Conversely, the expression "macht" in German means both power and authority.

## 4 Variables: Time and Space

The previous two sections outlined several views on "sovereignty," "state" and "state sovereignty." These notions have been characterized differently at different points in history by different agents such as individuals, communities and states depending on several pluralisms including the roles these agents play in their interrelations, contexts, realms and modes of existence. In different ways, these views are influenced by several variables. The following subsections will characterize two of these variables, that is time and space.[16]

### 4.1 Time

Broadly, "time" can be distinguished between existential time and cosmological time depending on whether there is a physical or metaphysical understanding. The former refers to successive totalities and is a physical and factual conception. The latter is the abstract notion that refers to a succession of instants that exclude themselves reciprocally and are equally empty, for example in the case of time indicated by clocks with their equal hours, minutes and seconds. More precisely, the author classifies these different understandings regarding "time" into eternalists and non-eternalists; finitists and infinitists; chance originationists; speculators about the past, the future, and both; and annihilationists.[17]

[16] For a detailed account on time and space see the Author's work [25], Chapter 6.

[17] I will only refer to the distinctions between eternalists and non-eternalists, and finitists and infinitists, in this paper. The rest of the understandings regarding time—i.e. chance originationists, speculators about the past, the future, and both, and annihilationists—are introduced in the Author's work [25], Chapter 6.

Eternalists favor conceptions that are abstract and metaphysical allowing them to claim their permanent, imperishable and unchangeable nature. Conversely, non-eternalists accept conceptions may not be permanent in nature and, therefore, that they are subject to change over time. For example, a territorial claim may be based on a God-given assumed right and, therefore, the relevant agents may consider their sovereignty unquestionable, imprescriptible and not open to discussion. Yet, the claim may be also based on the actual first settlement of an originally uninhabited territory—i.e. the right to claim sovereignty is based on empirical facts, whether they can be demonstrated or not at a later stage.

In turn, the distinction between finitists' and infinitists' understandings regarding time has to do with claiming bound and limited conceptions or universal and general conceptions. For example, despite their non-eternal character, a ruling party, clan or elite group may claim to have no limits in their authority and power because of their ancestry, blood lineage or cast—i.e. they condition their infinite standing to their own existence as a continuous family or group whether they may or may not base their right to uncontested sovereignty on a super-empirical normative authority such as God. In contrast, they may acknowledge both their own temporality and the finitude in their standing because they may accept sovereign claims are only relevant for those who can actually exercise the resultant rights and obligations—i.e. they condition their finite standing to their own particular temporal existence whether they may or may not base their right to uncontested sovereignty on a super-empirical normative authority such as God.

Whether the view pertaining to a notion and its existence in time is characterized as eternal or non-eternal, finite or infinite, the important point is to appreciate that it is a variable that conditions assumptions, beliefs and understandings. By "temporalizing" [56] the object or subject of study and relevant notions, the scholar contextualizes explanations and assessments and, as a result, avoids the outcome of applying unaccounted later assumptions, beliefs and understandings to past evidence [57, p. xvi].

### 4.2 Space

"Space" is the actual or virtual area where pluralisms and their interrelations happen such as land, water, outer space and cyberspace.[18] For example, issues such as material (natural) elements, features such as natural resources and topography, and cultural arrangements such as mutually established borders and applicable legal and political definitions play an important part in territorial disputes. In that vein, while a claiming party may base their case on the legal and political demarcation of a boundary according to an international binding procedure, their counterpart may claim the inapplicability or difficult application of the respective international award because of natural causes—e.g. the territorial dispute over the Cordillera of the Andes in which the international arbitration decided to apply the principle of "the

[18] For details about "space" see the Author's work [25], Chapter 6.

most elevated crests of said Cordillera that may divide waters" [58]. The example shows that the notion of space encompasses material (natural) as well as abstract (cultural) elements and features and can be classified: (a) according to its scope;and (b) according to the way it is perceived. In turn, space according to its scope can be sub-classified in the narrow, integral and representational sense while space according to the way it is perceived may be sub-divided in terms of physical, social and mental space.

a) According to its scope:

Space in the narrow sense is a synonym of territory. At the level of the state, it implies notions like "borders" and "boundaries." For example, a state is currently characterized in law by reference to territorial sovereignty.[19] At the level of the individual and the community, it is related to notions like "property" or "possession," as in, for example, the notions of self-ownership or property in the person [9, Chapter 4].

Space in the integral sense includes territorially and non-territorially characterized elements and features such as social and economic relations that are historically specific. For example, at the level of the state, it implies institutional practices and at the level of the individual and the community, it has to do with the way in which societal interactions change over time.

Space in the representational sense refers to the way in which it is conceived or conceptualized as a figment of intellectual analysis. For example, this could be the way in which different disciplines use the notion.

b) According to the way it is perceived:

Physical space is material or a natural area where interrelations between agents happen.

Social space refers to artificial (abstract) constructions created by human convention such as the hierarchy in an institution or in a family group.

Mental space is intellectual abstractions not necessarily based on social interrelations that refer to purely conceptual representations.

The aforementioned classifications are important when explaining and assessing issues encompassing state sovereignty. For instance, in territorial disputes such as the Falkland/Malvinas Islands[20] and the archipelago of San Andrés, Providencia and Santa Catalina [66–69][21] clearly, there are some evident similarities and differences in terms of physical space—e.g. they are all islands or groups located in different parts of the world. In terms of their territorial sovereignty, i.e. space in the narrow

[19] See [59], in particular Chapter 9.

[20] See the Author's work: [8], Chapter 6 and [24], Chapter 7. See also [60–64, 65, pp. 340–345].

[21] For a detailed account on the history behind the dispute according to both Colombia and Nicaragua see ref. [70], in particular, the preliminary objections of Colombia and the memorial of Nicaragua, both available at https://www.icj-cij.org/case/124/preliminary-objections.

sense, they are part of a sovereign state or their sovereignty is still being discussed. Depending on whether they are a *de jure* or de facto part of another state, or their sovereignty is still under discussion, their respective socioeconomic and political changes—i.e. space in the integral sense—are dependent on extra-territorial factors such as blockades.[22] Finally, they are in law classed as "islands" and the Law of the Sea Convention is applicable [71].

Depending on the understanding about "space" applied to state sovereignty, agents may not have a physical space or even a space in the narrow sense, yet they may be part of a dispute. The question "who counts?"[23] as a claiming party is open to interpretation. This is because, arguably, legal and political sciences and international relations currently understand "sovereign states" as requiring "territorial sovereignty," and, in turn, they understand "territorial sovereignty" as space in the narrow and physical senses only.

## 5 What do We Mean by "State Sovereignty"?

Intentionally, the subheading to this section has several key terms: "what," "we," and "state sovereignty." The "we" can encompass several options: state sovereignty may be perceived differently by different agents, for example, individuals, communities and states. Additionally, to ask "what" takes for granted "when" and "where." Taking into account the pluralisms and variables introduced in the previous sections, an individual, a community and a state may understand that state sovereignty has real existence and may be bound by time and space. However, each of them may too understand that state sovereignty has normative existence without necessarily having an actual presence in time and space—e.g. God's sovereignty. Moreover, despite their different positions in terms of time and space, these same agents might value state sovereignty positively or negatively, as an inclusive or exclusive concept.[24]

In addition to agents such as individuals, communities and states, the ideas of "what," "we" and "sovereignty" may be characterized by reference to, for example, disciplinary understandings. For instance, in political science and international relations, it is a commonplace that sovereignty as a status is binary in the sense that a state identifies itself as sovereign (or not) in relation to other agentswhile accepting different degrees of sovereignty.[25] However, these unidimensional views do not include law. In law, any entity who has a superior is not fully sovereign. In a legal

[22] For example, Argentina has threatened an economic blockade, an idea supported by other Latin-American States with visible immediate negative results for the islanders. For further details, see the Author's work [8], Chapter 6, and [9], Chapter 7.

[23] See the Author's view about this point in ref. [9], Chapter 6.

[24] The three-dimensional theory is based on ref. [72]. The trialistic theory moves from Kelsen's pure theory and includes facts, norms and values in the legal analysis.

[25] See, for example, Mitrany's theory of functionalism in ref. [73].

sense, sovereignty is still understood as an absolute notion. This is a legal epistemological (not ontological) assumption.[26]

Ontologically, therefore, "state sovereignty" is both power and authority and encompasses the rules that determine who, when, where and how to exercise them and their exercise. Depending on the epistemological presuppositions applied with regard to "state sovereignty," the scholar may acknowledge its whole complexity or refer to an element or feature. For instance, a scholar may be interested in explaining a form of authority such as the relationship between two necessary conditions that characterize any sovereign state: population and government. For example, the theories that political science[27] presents about the sovereign state such as liberalism, Marxism, Kantianism, anarchism, Weberianism, fundamentalism and the minimal state always have something to do with the way in which these two elements interact—i.e. rights and obligations, represented and representatives, fights between social groups, state as an organization, state as a means to an end, and many others.

A different scholar may, instead, be interested in exploring "state sovereignty" as the exercise of power at the domestic level and focus on another necessary element that constitutes any sovereign state, that is its territory—i.e. territorial sovereignty[28]—or conduct a purely theoretical exercise [18]. For example, theories in law[29] such as the original entitlement of the territory, the objective theory of territory and the subjective theory of territory refer to state sovereignty and title to territory. In turn, the purely legalist theory of the state understands that law and the state are both a group of legal norms with certain characteristics.

Axiologically, there are several clear examples in law and politics that show how the term "state sovereignty" is valued differently depending on the agent in question and the situation. Consider the United Nations' (UN) legal notion of sovereign equality among states [75] compared to realpolitik which demonstrates they do not have an equal footing. One of the many consequences of this different value judgment of the same notion is that the UN agenda for peace is largely dependent on whether states are willing to relinquish the use of their power to control disputes [76]. Another example in the UN system that brings evidence of an axiological choice is the veto power in the UN Security Council being only granted to certain sovereign states [77]. How the notion of "state sovereignty" plays differently, depending on the axiological choice, has an impact on individuals and communities. For example, the noun "Mapuche" can be divided into the two smaller expressions "Mapu" and "che." "Mapu" refers to a space in the narrow sense as a synonym of territory (space according to its scope) or physical space (space according to the way

[26] See, for example, the European Union legal and political framework. While it can be maintained that politically, Member States sovereignty is limited, in law they still have exclusive sovereignty unless a given power has been conferred—i.e. EU law principle of conferral, art. 5.2 [74].

[27] For an extensive analysis of theories pertaining to political science, the state and its nature see the Author's work [8], Chapter 2.

[28] See [59], in particular Chapter 9.

[29] For an extensive analysis of theories pertaining to legal science, the state and its nature see the Author's work [8], Chapter 2.

it is perceived)[30] and "che" refers to a person ontologically speaking. Therein, the term "Mapuche" indicates a close relationship between people and the land. One of the consequences is that, for their understanding, the notions of borders or boundaries do not exist [78]. Clearly, any claim to ethno-territorial rights based on this way of understanding ideal objects such as concepts pertaining to a territorial dispute are usually opposed to the interests of sovereign states and private companies depending on the value judgment applied to the "state sovereignty" notion [79].

The question about how to define and characterize state sovereignty is not minor or limited to theoretical speculation. In Latin America, Africa, the Middle East and Asia, despite the end of colonial intervention long ago, several territorial disputes have common roots and are still disruptive sociologically, financially, legally and politically. On the one hand, former European colonial powers applied in law and politics axiologically conditioned notions such as state sovereignty according to their wishes. The application of these axiologically conditioned notions resulted in arbitrary divisions of otherwise sociologically and culturally defined societies and, consequently, planted the seeds for ongoing conflicts. On the other hand, the application of these axiologically conditioned notions is not exclusive to the colonial past. Currently, some of these international agents, such as the United Kingdom, are still present directly or indirectly. Moreover, new international actors such as the United States and China fuel domestic and regional rivalries and cement dysfunctional relationships between neighbor states by manipulating the notion of state sovereignty by means of subtler international legal and political institutions and doctrines, such as humanitarian intervention and the principle of responsibility to protect.

## 6 Conclusion

There are many ways to answer the question of what state sovereignty is. The differences among these answers have to do with the frame of reference or the assumptions they depart from and the kind of questions they are aimed to address. Unsurprisingly, if the departure has to do with facts, the definitions and characterizations will be different from those that have abstract, conceptual or normative presuppositions. In a similar way, abstract, conceptual or normative questions of the form "What should state sovereignty be?" cannot be answered by empirical data, and empirical questions of the form "What is state sovereignty?" cannot be responded to by using conceptual or normative definitions. To understand better what "state sovereignty" means and implies at both a conceptual and substantive level, the first agreement should be on the frame of reference.

This paper proposed a multidimensional approach to the concept of state sovereignty because it encompasses many pluralisms and, therefore, accepts several conceptions. In articulating the argument, the article introduced several pluralisms and two variables: time and space. In that vein, the sections assessed, compared and contrasted conceptions in law and political science that clearly represent different

[30] For details about "space" see the Author's work [25], Chapter 6.

views. Bringing the above elements together, these pages conclude by delineating an answer to the question of what state sovereignty is.



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