

# EFFECT OF GLOBALIZATION ON SOVEREIGNTY OF STATES\*

## Abstract

*We had lived in a world of essentially unchallenged sovereignty for several generations now, and had begun to think of it as the natural state of affairs. However, the idea of states as autonomous, independent entities is collapsing under the combined onslaught of monetary unions, global television CNN, the Internet, governmental and non-governmental organizations. In this article, we intend to examine the effect of globalization on the notion and incidence of sovereignty of states and how nation states have adapted to the new challenges of globalization. Governments and activists alike complain that multilateral institutions such as the United Nations, the World Trade Organization, and the International Monetary Fund overstep their authority by promoting universal standards for everything, which in turn alter the scope of state authority. It is our intention to consider just how much globalization has affected state authority.*

## Introduction

We had lived in a world of essentially unchallenged sovereignty for several generations now, and had begun to think of it as the natural state of affairs. However, the idea of states as autonomous, independent entities is collapsing under the combined onslaught of monetary unions, global television, the Internet, governmental and non-governmental organizations. Many have proclaimed the death of sovereignty of states while a few still believe that sovereignty is still the basis of state interaction. According to Stephen D. Krasner<sup>1</sup>

Sovereignty was never quite as vibrant as many contemporary observers suggest. The conventional norms of sovereignty have always been challenged. A few states notably the United States, have had autonomy, control, and recognition for most of their existence, but most others have not. The polities of many weaker states have been persistently penetrated, and stronger nations have not been immune to external influence. China was occupied. The constitutional arrangements of Japan and Germany were directed by the United States after World War II. The United Kingdom, despite its rejection of the euro, is part of the European Union.

Sovereignty is still very attractive to weaker states, whose domestic structures have been influenced by outside actors, and whose leaders have very little control over trans-border movements or even activities within their own country. This is because sovereignty provides them with international recognition, which recognition guarantees them access to international organizations and sometimes, international finance. It also offers status to the individual leaders. While the great powers of Europe have eschewed many elements of sovereignty, the United States, China, and

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<sup>1</sup> **Sovereignty**, Foreign Policy. Source: <http://www.globalpolicy.org/nations/realism.htm>, p. 1

Japan have neither the interest nor the inclination to abandon their usually effective claims to domestic autonomy.

In this article, we intend to examine the effect of globalization on the notion and incidence of sovereignty of states and how nation states have adapted to the new challenges of globalization.

Governments and activists alike complain that multilateral institutions such as the United Nations, the World Trade Organization, and the International Monetary Fund overstep their authority by promoting universal standards for everything, which in turn alter the scope of state authority. It is our intention to consider just how much globalization has affected state authority.

### **Globalization**

Globalization has become a favourite catchphrase of everyone; journalists, economists, politicians, environmentalists, lawyers, and even farmers. But what people mean by 'globalization' is often confused and confusing. Scholte<sup>2</sup> notes that "in spite of publications on the subject, our analyses of globalization tend to remain conceptually inexact, empirically thin, historically and culturally illiterate, normatively shallow and politically naïve. Although globalization is widely assumed to be crucially important, we generally have scant idea what, more precisely, it entails". This is associated with 'globalization' being a truly multifaceted phenomenon, with implications that encompass not just the economic but also the social, political, cultural and geographical.<sup>3</sup> Radice<sup>4</sup>, for example, notes that "globalization has been a prominent topic among geographers and sociologists as well as economists and political scientists, and is studied within every paradigm, from neoclassical economics to postmodern social theory to realist international relations theory to Marxism".

As widespread as the notion of globalization may be, there are still those who challenge the concept and insist that there is nothing like a globalized village. According to Yesufu Bala Usman:<sup>5</sup>

"What sort of village is it, in which, the villagers in one part of the village, are totally prohibited from going to the other part of the village, even though most of the good things of life in the village are to be found over there? ... But, it is not only the notion that we are living in a global village, which is a fantasy. The belief that the whole world is now, largely, one huge global free market is an illusion."

According to Leslie Sklair, the globalization literature is confused because not all those who use the term distinguish it clearly enough from internationalization. He

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<sup>2</sup> Scholte, Jan Aart, **Globalisation: A Critical Introduction**, (Basingstoke: Palgrave, 2000)

<sup>3</sup> R. Sugden and J.R. Wilson, "Globalisation, the New Economy and Regionalisation", *Globalization and World Cities* <http://www.wiboro.ac.uk/gawc/rb/rb/70.html>, 3

<sup>4</sup> Radice Hugo, "Responses to Globalisation: A Critique of Progressive Nationalism", *New Political Economy* (2000), 6, cited in R. Sugden and J.R. Wilson, *Ibid.*

<sup>5</sup> "What Exactly is Globalization? A keynote address to the 40<sup>th</sup> Annual Conference of the Nigerian Association of Law Teachers, Monday, 17<sup>th</sup> May 2004, NIALS, University of Lagos Campus.

argues that although some writers appear to use the two terms interchangeably, a clear distinction must be drawn between the inter-national and the global. The hyphen in inter-national is to distinguish (inadequate) conceptions of the 'global' founded on the existing, even if changing, system of nation-states, from (genuine) conceptions of the global based on the emergence of global processes and a global system of social relations not founded on national characteristics or nation states.<sup>6</sup>

It cannot be denied that globalization has been part of human history. It has been part of the movement of history. Globalization has ensured that the old distinctions between international and domestic policies are becoming increasingly irrelevant.<sup>7</sup>

Globalization "refers to processes whereby many social relations become relatively delinked from territorial geography, so that human lives are increasingly being played out in the world as a single place".<sup>8</sup> Steve Smith and John Baylis conceive of globalization as "the process of increasing inter connectedness between societies such that events in one part of the world more and more have effects on peoples and societies far away."<sup>9</sup>

Ramesh B. Karky could not have stated the position better when he said succinctly, "it is hard to get a single definition of globalization."<sup>10</sup> The International Labour Organization defines globalization as a process of growing interdependence between all people of this planet. According to them, people are linked together economically and socially by trade, investments and governance. These links are spurred by market liberalization and information, communication and transportation technologies. In fact, global economy was in existence since the 16th century, based on the development of international trade, foreign direct investment and migration.<sup>11</sup>

We concede to the suggestion of Kudrle<sup>12</sup> that in defining globalization, it should be considered with regard to the specific intent of those using the term. Since we are considering the political effect of globalization, we shall define globalization as the expansion and intensification of international political and economic intercourse. There is no gainsaying the fact that economic and political independence and interdependence are interrelated.

Many have asserted that globalization benefits everyone. It generates and distributes wealth, it delivers cheaper and more varied products and services, and it

<sup>6</sup> "Competing Conceptions of Globalization", *Journal of World-systems Research*, v, 2, summer 1999, 143-163; <http://jwsr.ucr.edu/>, issn 1076-156x © 1999 Leslie Sklair

<sup>7</sup> Greg Nzekem, "**Contemporary Experiences in Globalization**" in **Globalization and Nigeria's Economic Development**. Proceedings of the one-day seminar held at the N.I.I.A Lagos, February 11, 1999, p. 30

<sup>8</sup> Jan A. Scholte, cited in E. Onoja, V. Tarhulw, E. Kennen and M. Dura, "**Fostering International Peace and Security in a Globalised World: The Different Facets of the Peace process and the Continuing Challenges of the United Nations**, p. 6.

<sup>9</sup> Steve Smith and John Baylis, cited *ibid*.

<sup>10</sup> Ramesh B. Karky, *Globalization and Least Developed Countries*, in C. C. Nweze (ed) "**Contemporary Issues on Public International and Comparative Law: Essays in Honor of Professor Christian Nwachukwu Okeke**", USA, Vandepas Publishing 2009 p.75

<sup>11</sup> *Globalisation and Workers' Rights*, International Labour Office, ILO, available at <http://www.ilo.org/actrav>

<sup>12</sup> Robert T. Kudrle, "Three Types of Globalization: Communication, Market and Direct", in Raimo Vayrynen (ed.), **Globalization and Global Governance**, (Lanham, Rowman & Littlefield, 1999)

encourages democratization. Despite these assertions, which are evidenced by the dramatic growth in foreign investment over the past decade, the overwhelming majority of foreign investments still occur between the world's richest nations. Even within the developing world, it is still the stronger nations that receive the bulk of foreign investment. Most small states believe that globalization lead to dominance of the weak by the rich and powerful states. Considering these and the anti-globalization protest movements round the world, we raise the question, 'what has globalization done to sovereignty of states?'

### **Sovereignty**

Sovereignty is the central attribute of the state as a form of political organization. Sovereignty and statehood have become so closely interlinked that a non-sovereign state tends to be regarded as only a quasi-state. It does not signify merely a certain degree or quantity of power, as if the extent to which a state is sovereign can be measured simply by calculating its relative military and economic power. Sovereignty signifies simultaneously a right to act and a power to act. There are cases where the power of a state to act is so confined and limited that its sovereign right to act is rendered largely meaningless. Equally, there are times when the actual power of a state is so great that, although its sovereign right to use this power has not been formally acknowledged by others, it is tacitly recognized. These are extreme cases, however. Normally, sovereignty means the possession of a right and power, and disputes about sovereignty are disputes about right and power.

Sovereignty manifests itself in different forms, and this largely accounts for the varying definitions that are given of it. Seen from one angle, the right and power of sovereignty is exercised over territory, and is akin to the right and power of possession or ownership of a portion of the earth's surface. This ownership of territory includes in turn a right and power over all that exists, whether static or mobile, human or non-human, within the territory concerned, and extends to so-called territorial waters and airspace.

Sovereignty can be defined more narrowly as the right and power to make the ultimate or final decision about the terms of existence of a whole territorially-based body politic. It denotes a central core of right and power which may be called the right and power of self-determination, that is, a right and power to determine for and by oneself—and not at the command of others—the fundamental issues relating to one's existence. No external body has the right to command or order a sovereign state to act in a given way about matters of fundamental concern to it.

Sovereignty is consequently often confused with independence, and the definition is accurate so long as it is not confused with total independence. This is because the right of sovereignty itself is based on recognition by other sovereigns, and hence on some kind of relationship with other states. The self-proclaimed republic of Northern Cyprus is a good example of a state that is not sovereign because it is not generally recognized as such.

Sovereignty relates to fundamentals. This is why it is sometimes equated with the right and power to wage war against external enemies or, internally, with the right and power to suspend the normal operation of the law in the face of some threat to peace or stability. In the normal operation of a constitutional regime, sovereignty may

sometimes seem invisible, and may be decried as non-existent. It shows itself typically in times of crisis and upheaval. In such times, sovereign power may well extend in an all-encompassing way, but there is no necessary link between it and a totalitarian form of government.<sup>13</sup>

The modern theory of sovereignty arose from the reaction of European states to the doctrine of the Holy Roman Empire (created in 962 A.D) according to which the Emperor was superior to all governments, monarchies or republics of the Christian countries. This reaction was also directed against the doctrine of the superiority of the Pope over all Christian rulers. In addition to the reaction against these two external factors, the theory of state sovereignty was also designed to combat, internally, the fissiparous tendencies and centrifugal forces of feudal barons<sup>14</sup>.

The more modern doctrine of sovereignty emerged in Europe in the 16th and 17th centuries. For the Italian political scientist, Niccolo Machiavelli, the security of the prince and the stability of the state constituted an end, which justified all means for its attainment.<sup>15</sup> The French jurist Jean Bodin was the first to argue at length that sovereignty was an essential attribute of the body politic, and to define its characteristics. Thomas Hobbes provided a more refined and systematic exposition of the concept. These writers were chiefly concerned with the need or desire to preserve and strengthen the unity of the state against the very real dangers of religious civil war. They favoured a monarchical sovereign as being the most "indivisible". However, for John Locke and Jean Jacques Rousseau, the people as a whole constituted the sovereign. To Rousseau, the individual is subject to no other individual but merely to the *volonte Generale*, the will of the community. Hegel following the thought of Rousseau, stated, "the state is the march of God in the world. Its formulation is the power of reason realized as will".<sup>16</sup>

Austin's sovereign has no external superior or internal rival. According to him:

"If a determinate human superior not in the habit of obedience to a like superior, receive habitual obedience from the bulk of a given society, that determinate superior is sovereign in the society and the society (including the superior) is a society political and independent."

This perhaps justifies the contention that the meaning of the concept of sovereignty is largely contingent upon the context in which it features; that, there is

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<sup>13</sup> Murray Greensmith Forsyth, "Sovereignty," Microsoft® Encarta® Encyclopedia 2000. © 1993-1999 Microsoft Corporation. All rights reserved.

<sup>14</sup> B. O. Okere, "Evolution of the Concept of Sovereignty", Lecture Note Faculty of Law, UNEC.p.3

<sup>15</sup> **Ibid**, p. 5

<sup>16</sup> Jacques Maritain, "The Concept of Sovereignty", Vol. X/iv. **American Political Science Review**, 1950, p. 353. Cited in B. O. Okere, *Ibid*, p. 9

no objective concept that is universally applicable and yet it is of foundational importance to the concept of a state and indeed of modern political knowledge.<sup>17</sup>

The issue raised by these conceptions of sovereignty is to determine if these concepts of absolute state power is consistent with modern life and the impact of the globalising world on sovereignty of states. In brief,<sup>18</sup> is the concept of sovereignty as absolute power compatible with international solidarity and inter-dependence and have scientific and technological advance which have reduced the world into a “global” village” influenced or modified the orthodox conception of state sovereignty?

### **Perspectives of Globalization**

As noted earlier, globalization is the term used to describe one of the most contemporary phenomena of our time; involving the diffusion of ideas, practices and technologies through the various now available means of communication and interaction. It has led to internationalization of most issues in human and state existence. It is not merely liberalization of markets, though in many cases that has been the result.

The definition by Anthony Giddens<sup>19</sup> aptly describes this phenomenon: “the intensification of worldwide social relations which link distant localities in such a way that local happenings are shaped by events occurring many miles away and vice versa”.

This involves a change in the way we understand geography and experience localness. As well as offering opportunity, it brings with it considerable risks linked, for example, to technological change. Globalization, thus, has powerful economic, political, cultural and social implications for sovereignty.

### **Globalization and Political Sovereignty**

Globalization has led to a decline in the power of national governments to direct and influence their economies (especially with regard to macroeconomic management); and to determine their political structures. There is a strong indication that the impact of globalization is most felt through the extent to which politics everywhere are now essentially market-driven. It is not that governments are now unable to run their states, but to survive in office; they must increasingly “manage” national politics in such a way as to adapt them to the pressures of trans-national market forces.

The institutionalization of international political structures has led to political globalization. Since the early nineteenth century, the European interstate system has been developing both an increasingly consensual international normative order and a set of international political structures that regulate all sorts of interaction. This phenomenon has been termed “global governance” by Craig Murphy<sup>20</sup>. It refers to the

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<sup>17</sup> Dan Saroochi, Sovereignty, Economic autonomy, the United States, and the International Trading System: Representations of a Relationship, **EJIL**, (2004), Vol. 15 No. 4, 651-676

<sup>18</sup> As stated by B. O. Okere, *op. cit.*, p. 10

<sup>19</sup> A. Giddens, **The Consequences of Modernity**. Stanford: Stanford University Press, (1990) 64

<sup>20</sup> Christopher Chase-Dunn, “Globalisation: A World Systems Perspective”, **Journal of World-Systems Research**, V. 2, Summer 1999, 187–215, <http://jwsr.ucr.edu/>, issn 1076-156x

growth of both specialized and general international organizations. The most dominant of the general and global organizations that had emerged was the League of Nations and now succeeded by the United Nations. At the regional levels, the African Union, European Union, Organization of American States, the Arab League, etc exist. The impact of these organizations is to create of a process of institution-building, where the organizations are able to determine and dictate what happens in the governance of member states. This is the trend of political globalization. Non member states find themselves outside this cooperation and are regarded as deviants. The future would see more states edging to conform to the norms laid down by these organizations.

Already, the impact is being felt in the area of human rights. Due to the internationalization of human rights, a state is no longer free to treat its nationals and aliens the way it pleases. It must conform to international standards laid down in the various human rights treaties, most of which are now regarded as customary law. Persistent, concentration of sovereignty in international institutions will eventually lead to a state of subjugation of political sovereignty to the dictates of the institutions.<sup>21</sup>

### **Globalization and Economic Sovereignty**

The interrelationships of markets, finance, goods and services, and the networks created by transnational corporations are the most important manifestations of economic globalization. Though the capitalist world-system has been international in essence for centuries, the extent and degree of trade and investment globalization has increased greatly in recent decades. Economic globalization has been accelerated by what information technology has done to the movement of money. It is commonly claimed that the market's ability to shift money from one part of the globe to another by the push of a button has changed the rules of policy-making, putting economic decisions much more at the mercy of market forces than before.

According to Karky, economic globalization is a historical process; the result of human innovation and technological progress. It refers to the increasing integration of economies around the world, particularly through trade and financial flows.<sup>22</sup> Now, shifts in economic activity in say, Japan or the United States, are felt in countries all over the globe. The internationalization of financial markets, of technology and of some manufacturing and services bring with them a new set of limitations upon the freedom of action of nation states. In addition, the emergence of institutions such as the World Bank, and the International Monetary Fund, involve new constraints and imperatives.

### **Globalization and Cultural Sovereignty**

From our perspective, culture refers to the patterns of behaviour and thinking that people living in social groups learn, create, and share. Culture distinguishes one human group from others. A people's culture includes their beliefs, rules of

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<sup>21</sup> *Ibid.*

<sup>22</sup> *Op.cit.*, citing Globalisation: Threat or Opportunity; by IMF staff, January 2002, page 1, available at <http://imf.org/external/np/exr/ib/2000/041200..htm>.

behaviour, language, rituals, art, technology, styles of dress, ways of producing and cooking food, religion, and political and economic systems.

Culture has several distinguishing characteristics. First, it is based on symbols -abstract ways of referring to and understanding ideas, objects, feelings, or behaviours; and the ability to communicate with symbols using language. Second, culture is shared. People in the same society share common behaviours and ways of thinking through culture. Third, culture is learned. While people biologically inherit many physical traits and behavioural instincts, culture is socially inherited. A person must learn culture from other people in a society. Fourth, culture is adaptive. People use culture to flexibly and quickly adjust to changes in the world around them<sup>23</sup>

Since no human society exists in complete isolation, different societies also exchange and share culture. In fact, all societies have some interactions with others, both out of curiosity and because even highly self-sufficient societies sometimes need assistance from their neighbours. Today, for instance, many people around the world use similar kinds of technology, such as cars, telephones, and televisions. Commercial trade and communication technologies, such as computer networks, have created a form of global culture. Therefore, it has become increasingly difficult to find culture that is shared within only a single society.

Cultural exchange can provide many benefits for all societies. Different societies can exchange ideas, people, manufactured goods, and natural resources. Such exchanges can also have drawbacks, however. Often, the introduction of aspects of another society's culture can disrupt the cohesive life of a people.

Cultural globalization relates to the diffusion of two sets of cultural phenomena:

- the proliferation of individualized values, originally of Western origin, to even larger parts of the world population. These values are expressed in social constitutions that recognize individual rights and identities and transnational and international efforts to protect "human rights."
- the adoption of originally Western institutional practices. Bureaucratic organization and rationality, belief in a law-like natural universe, the values of economic efficiency and political democracy have been spreading throughout the world since they were propagated in the European Enlightenment<sup>24</sup>.

Whereas the modern world-system has always been, and is still, multicultural, the growing influence and acceptance of Western values of rationality, individualism, equality, and efficiency is an important trend of the twentieth century; a trend which has heightened both in speed and nature. Time and space compression by new information technologies is simply an extension and acceleration of the very long-term trend towards acculturation.

## **Globalization and the Right to Development**

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<sup>23</sup> Microsoft ® Encarta ® 20080  
1993-2007 Microsoft Corporation. All rights reserved.

<sup>24</sup> John W. Meyer, "The Changing Cultural Content of the Nation-State: a World Society Perspective." In George Steinmetz (ed.) **New Approaches to the State in the Social Sciences**. Ithaca: Cornell University Press., 1996

Acceptance of the right to development of a people, imply a concession to the need for interaction, cooperation and dependence. The right to development has been defined as the particular process of development in which all human rights and fundamental freedoms can be fully realized. It is a process of step-by-step progressive realization of all the rights, the implementation of a development policy to realize these rights, and the relaxation of resource constraints on these rights through economic growth. The right to this process has to be viewed as a composite right wherein all the rights are realized together in an interdependent and composite manner. The right to development is not only a claim on the outcomes of development that is an improved realization of different rights, but also the process of achieving these outcomes. That process would be globalization.

In a globalized world, international developments affect developing countries' ability to formulate and implement the policies for realizing the right to development. Globalization in principle expands the opportunities to enjoy goods and services beyond what a country can produce itself, just as participating in an expanding market does for an individual, thus potentially enhancing the capabilities for enjoying the right to development.<sup>25</sup>

It must be noted that in practice, for most of the developing countries, globalization has not done so. To translate the potential opportunities into actual capabilities, a country would need to adopt an appropriate set of policies. Thus, even though this interaction continues, countries must elect what to accept and what to reject, by adopting appropriate policies that would be to their best benefit. This is a reflection of the sovereignty of such a state.

### **Sovereignty in a Globalized World**

Sovereignty used to mean final authority. This is no longer so. When philosophers Jean Bodin and Thomas Hobbes elaborated the notion of sovereignty in the 16th and 17th centuries, they were concerned with establishing the legitimacy of a single hierarchy of domestic authority. Although they both accepted the existence of divine and natural law<sup>26</sup>, they believed the word of the sovereign was law.

However, in the contemporary world, sovereignty primarily is linked with the idea that states are autonomous and independent from each other. Within their own boundaries, the members of a polity are free to choose their own form of government. Another point is that no state has the right to intervene in the internal affairs of another state. Sovereignty is also associated with the idea of control over trans-border movements. Finally, sovereignty also means that political authorities can enter into international agreements. States are free to endorse any contract they find attractive. Any treaty among states is legitimate provided that it has not been coerced. This is the new strength of sovereignty.

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<sup>25</sup> United Nations, Economic and Social Council, E/CN.4/2003/WG.18/2 17<sup>th</sup> August 2004: Preliminary Study of the independent Expert on the right to development, Mr. Argun Sengupta, on the impact of international economic and financial issues on the enjoyment of human rights, submitted in accordance with Commission resolutions 2001/9 and 2002/69

<sup>26</sup> Even John Austin accepted that every government let it be ever so powerful, renders occasional obedience to the commands of other governments. This statement we believe concedes to the impracticability of absolute sovereignty.

Technological changes over the last 200 years have increased the flow of people, goods, capital, and ideas. The response of states to globalization and its impact on their sovereignty is nothing compared with what followed the invention of the printing press. Most sovereign monarchs could not contain the spread of the concepts that spread with it and many lost not only their kingdoms but also their heads. Despite the perceived impacts of globalization on sovereignty of states, states appear to be stronger and more able to address internal problems and no leader has lost its state yet to globalization.

In addition to attempting to control the flows of capital and ideas, states have long struggled to manage the impact of international trade. The opening of long distance trade for bulk commodities in the 19th century created fundamental cleavages in all of the major states. One thing is certain; globalization is changing the scope of state control. The reach of the state has increased in some areas and contracted in others. Rulers have recognized that walking away from issues they cannot resolve can enhance their effective control. For instance, beginning with the Peace of Westphalia, leaders chose to surrender their control over religion because it proved too volatile. Keeping religion within the scope of state authority undermined, rather than strengthened, political stability.

Monetary policy is an area where state control has contracted. With the exception of Great Britain, the major European states have established a single monetary authority.

Along with the erosion of national currencies, we now see the erosion of national citizenship – the notion that an individual should be a citizen of one and only one country, and that the state has exclusive claims to that person's loyalty. For many states, there is no longer a sharp distinction between citizens and non-citizens. Permanent residents, guest workers, refugees, and undocumented immigrants are entitled to some bundle of rights even if they cannot vote. The ease of travel and the desire of many countries to attract either capital or skilled workers have increased incentives to make citizenship more flexible.

Treaty is one of the sources of international obligation. It is a basic norm of law that one cannot derive rights and liabilities from a treaty to which he is not party. However, contemporary international law now envisages situations where rights and liabilities are created for states without their being party to such transaction. There are treaties that are assimilable to international executive acts and treaties assimilable to international legislative acts, such as treaties that create objective legal situations like neutralization, demilitarization, internationalization of human rights and conventions codifying existing norms of customary international law<sup>27</sup>.

Membership to an international organization has tremendous impact on the sovereignty of states. This can be appreciated from four sides. The activities of international organizations can have quasi- legislative, Administrative and Supervisory, as well as Jurisdictional effects. This hinders the freedom of member states to act as they please.

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<sup>27</sup> The UN Charter, Article 2 (6) states that the organization shall ensure that states that are not members of the UN shall act in accordance with the UN Charter.

Transnational Non-governmental Organizations (NGOs) have much influence over state activities. Throughout the 19th century, there were transnational movements to abolish slavery, promote the rights of women, and improve conditions for workers. The number of transnational NGOs, however, has grown tremendously, from around 200 in 1909 to over 17,000 today.<sup>28</sup> The availability of inexpensive and very fast communications technology has made it easier for such groups to organize and make an impact on public policy and international law. Such groups prompt questions about sovereignty because they appear to threaten the integrity of domestic decision-making. Activists who lose on their home territory can pressure foreign governments, which may in turn influence decision makers in the activists' own nation.

### **International Institutions – A violation of Sovereignty?**

Belonging to an international institution like the AU, the EU, the OAS is inconsistent with conventional sovereignty rules. Member states have created supranational institutions that can make decisions opposed by some member states. For instance, the ruling of The European Court of Justice has direct effect and supremacy within national judicial systems, even though these doctrines were never explicitly endorsed in any treaty. The European Monetary Union created a central bank that now controls monetary affairs for three of the union's four largest states. The Single European Act and the Maastricht Treaty provide for majority or qualified majority, but not unanimous voting in some issue areas.

In one sense, these institutions are products of state sovereignty because they were created through voluntary agreements among its member states. But, in another sense, it fundamentally contradicts conventional understandings of sovereignty because these same agreements have undermined the juridical autonomy of its individual members.

Thus, the question that must be addressed is; which is superior: Sovereignty or Political and economic integration? Which should be subject to the other?

Human rights have made a significant impact on international law. It has particularly affected the sovereignty of states and the assumption that international law is solely a state-based system and that states are free to treat their nationals the way they please. This development is the reflection of a wider phenomenon: the increased concern of people all over the world with the treatment accorded to their fellow human beings in other countries, particularly when the treatment fails to come up to minimum standards of civilized behaviour. Therefore, human rights principles are the same everywhere, irrespective of sex, race or creed. That means that human rights are applicable in every society and association of human beings.

In Article 56 of the United Nations Charter, all members “pledge themselves to take joint and separate actions in cooperation with the organization for the achievement of these and related ends”.

The notion of human rights is not only individualistic in nature but also protects certain group rights. The idea of peoples' rights is based on the premise that there are certain rights, which are enjoyed commonly by all. For instance, a people, a

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<sup>28</sup> Stephen D. Krasner, *op.cit.*, p.5

race, a community may have certain rights which if they are deprived of, may make their existence as such a group unfulfilling. Minority groups may also agitate for protection if their peculiar nature is not considered in the normal course of events in the political scheme. Women have been agitating for equality and freedom from discrimination for decades now, leading to the existence of rights documents specifically addressing equality for women and non discrimination. Other groups such as children, refugees, orphans and vulnerable children have had their interests addressed in different documents.

It has been suggested that there can be no fully universal concept of human rights, for it is necessary to take into account the diverse cultures and political systems of the world<sup>29</sup>. Ahead of the Vienna World Conference on Human Rights 1993, Asian States adopted the Bangkok Declaration 1993<sup>30</sup> which challenged what was perceived as the Western concept of human rights. The Declaration stressed the need to consider human rights in their national and regional contexts and emphasized the principles of respect for national sovereignty and non-interference in the internal affairs of states.

Despite that, the universality of human rights and its place beyond the limits of domestic jurisdiction were reaffirmed by the Vienna Declaration and Programme of Action on Human Rights 1993<sup>31</sup> that was adopted by the Vienna World Conference. The world conference took the following positions:

1. “The World Conference on Human Rights reaffirms the solemn commitment of all states to fulfill their obligations to promote universal respect for, and observance and protection of, all human rights and fundamental freedoms for all in accordance with the Charter of the United Nations, other instrument relating to human rights, and international law. The universal nature of these rights and freedoms is beyond question.
2. The promotion and protection of all human rights and fundamental freedoms must be considered as a priority objective of the United Nations in accordance with its purposes and principles, in particular the purpose of international cooperation. In the framework of these purposes and principles, the promotion and protection of all human rights is a legitimate concern of the international community...
3. All human rights are universal, indivisible and interdependent and interrelated. The international community must treat human rights globally in a fair and equal manner on the same footing, and with the same emphasis. While the significance of national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind, it is the duty of states, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms”.

Thus with respect to human rights, a state must meet international standards or be held responsible for breach of international human rights law.

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<sup>29</sup> I. Nguema, “Human Rights Perspective in Africa”, (1990) 11 **H.R.L.J** 261

<sup>30</sup> (1993) 14 **H.R.L.J.** 370

<sup>31</sup> (1994) 1-1 **I.H.R.R.** 240, cited in D. J. Harris, **Cases and Materials in International Law**, London, Sweet and Maxwell 5th Ed, 1998, P 627

On the economic sphere, there have been allegations that underlying the economic sovereignty debate is a hidden power struggle on the world stage, contested by a number of prominent countries who use the language of globalization in the pursuit of very national agendas. Pang Zhongying warns any country opening their economy to the outside world that it is by no means a free lunch. The policy will inevitably come at a cost<sup>32</sup>. The cost can be perceived to be a weakening of the nation's "economic sovereignty", namely the erosion of permanent and exclusive privileges over its economic activities, wealth, and natural resources. A review of the world's history will find that it is common that the economic sovereignty of an individual member is from time to time influenced by global economic trends.<sup>33</sup> The increase in the number of international organizations and the expansion of their functions has undeniably restricted an individual country's sovereignty to certain extent.

### Conclusion

Globalization is often seen in terms of impersonal forces wreaking havoc on the lives of ordinary and defenceless people and communities. It is not coincidental that interest in globalization over the last two decades has been accompanied by an upsurge in what has come to be known as New Social Movements (NSM).<sup>34</sup> NSM theorists, despite their substantial differences, argue that the traditional response of the labour movement to global capitalism, based on class politics, has generally failed, and that a new analysis based on identity politics (of gender, sexuality, ethnicity, age, community, belief systems) has taken over. Today, more or less every specialism in the social sciences has its 'globalization' perspective; for example, globalization of law,<sup>35</sup> social welfare, crime<sup>36</sup>, labour<sup>37</sup> and politics. Among the most important substantive issues, widely discussed by globalization researchers inside and outside the four approaches outlined above, are global environmental change and gender and globalization.

The main challenge to global capitalism in the economic sphere is the argument that the rich countries 'think global and act local'. It is particularly the rich countries and few advanced developing countries that are able to harness the benefits of global economy. Poor countries are not able to get and as a result, the gaps between the rich and poor countries, and rich and poor people within countries have grown.<sup>38</sup>

However, the results of the Uruguay Round Multilateral trade negotiations and the establishment of the World Trade Organization in 1995, the United Nations

<sup>32</sup> Pang Zhongying, "Globalisation v. Economic Sovereignty", *China Daily*, 2 December 2005

<sup>33</sup> *Ibid.*

<sup>34</sup> L Sklair, 'Social Movements and Global Capitalism' in F. Jameson and M. Miyoshi, eds. **Cultures of Globalization**, Durham, NC. Duke University Press. (1998b); T. Spybey, *Globalization and World Society*, Cambridge: Polity Press, (1995)

<sup>35</sup> Most countries are now guided by international standards relying on multilateral treaties and customary Law.

<sup>36</sup> A body of international criminal law is emerging.

<sup>37</sup> Through the International Labour Organisation

<sup>38</sup> International Monetary Fund, globalization: Threat or Opportunity, by IMF Staff, January 2002, p.11, available at <http://www.imf.org/external/np/exr/ib/2000/041200.htm>

Millennium Summit in September 2000, WTO Doha Development Agenda of 2001, the International Conference on Financing for Development and its Monterrey Consensus of March 2002, and Highly Indebted Poor Countries (HIPC) Initiatives are examples of important breakthrough in the search for economic development for all, including people of Africa, and the fourteen less-developed countries of Asia-Pacific region who have been facing severe poverty.<sup>39</sup>

An important part of economic globalization today is the increasing dispersal of the manufacturing process into many discrete phases carried out in many different places. Being no longer so dependent on the production of one factory and one workforce gives capital a distinct advantage, particularly against the strike weapon which once gave tremendous negative power to the working class. Global production chains can be disrupted by strategically planned stoppages, but these generally act more as inconveniences than as real weapons of labour against capital. The international division of labour and its corollary, the globalization of production, build flexibility into the system so that not only can capital migrate anywhere in the world to find the cheapest reliable productive sources of labour but also few workforces cannot any longer decisively 'hold capital to ransom' by withdrawing their labour.

The issue of democracy is central to the advance of the forces of globalization and the practices and the prospects of social movements that oppose them, both local and global. The rule of law, freedom of association and expression, freely contested elections, as minimum conditions, however imperfectly sustained, are as necessary in the long run for mass market based global consumerist capitalism as they are for alternative social systems.

The most significant impact of globalization on sovereignty of states is that it has altered the scope of state authority and control rather than to generate some fundamentally new way to organize life. Yet, the reduction of state authority and control was not done out of coercion but is rather a reduction in power free will. This freedom to decide what to do with state power is itself a product of sovereignty of states.

In conclusion, even though it can be shown that globalization has reduced certain state powers, it is still within the sovereign power of a state to decide not to be part of the integrated global life. It is a choice a nation makes in exercise of its sovereign powers. The central challenge however is to ensure that globalization becomes a positive force for the entire world's people. While globalization offers great opportunities, at present its benefits are very unevenly shared, while its costs are unevenly distributed.

This situation is quite aptly captured by the United Nations thus;

We recognize that developing countries and countries with economies in transition face special difficulties in responding to this central challenge. Thus, only through broad and sustained efforts to diversity, can globalization be made fully inclusive and equitable. These efforts must

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<sup>39</sup> Ramesh B. Karky, "Globalization and Less Developed Countries", in C. C. Nweze (ed) **Contemporary Issues on Public International and Comparative Law: Essays in Honor of Professor Christian Nwachukwu Okeke**, USA, Vandepias Publishing 2009 p.75

include policies and measures, at the global level, which correspond to the needs of developing countries and economies in transition and are formulated and implemented with their effective participation.<sup>40</sup>

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<sup>40</sup> United Nations (2000) A/RES/SS/2 United Nations Millennium Declaration at para. 5.