ALEKSANDAR SAVANOVIC
Faculty of Political Sciences, University of Banja Luka, Bosnia and herzegovina

ECONOMIC SOVEREIGNTY

Abstract:

Abstract: In this paper we analyze one aspect of the standard thesis that the globalization process leads towards desovereignization. For the purposes of this paper we have adopted a narrow definition of globalization as a process of global expansion of capital, primarily financial. The classic design of sovereignty of a nation state is compromised due to the proliferation of capital, and states are becoming less able to resist the power of multinational corporations, both in terms of taking over resources and imposing political decisions. This fact raises the question of the subject of sovereignty: whether governments represent the interests of citizens (people) who, as the source of sovereignty, transfer the executive power to the government or governments must adjust to the interests of anonymous centres of economic power. If the latter is the case, then we obviously encounter a new kind of sovereignty: economic sovereignty.

Keywords:

globalization, sovereignty, nation state.

JEL Classification: F59, A10

1. Introduction: definitions of concepts

For the purposes of this article, we need a preliminary definition of the strategic concepts used in the analysis. These are the concepts of state, sovereignty, ownership and globalization.[1] Obviously, it is not possible to provide a detailed elaboration of controversies present in these fundamental concepts, thus we will only define the content of words used below.

Standard definition of the word “state” refers to *a set of institutions in which political power is concentrated and which are in themselves independent both from the ruler and subjects.* [Vincent, 2010:31] As such, it implies a monopoly of *legitimate* force over the population of a certain territory. The key particularity is the legitimate use of force, as it is obvious that on any territory and among any group of people there are various forms of violence. However, the state represents the only entity which has the “Weberian” right to the legitimate use of force. This is the essential meaning of the word “power”. [Smith, 1999:2] Two key questions arise from this definition. How is this right to the monopoly of force created? What is its purpose? The first question takes us to the issue of the theory of sovereignty, while the second one leads to the ownership theory.

In terms of sovereignty, the state is usually understood as sovereign in the “Westphalian” sense – “inward and outward”. Its external and internal sovereignty refer to the fact that it is the *sole* arbitrator for arbitration within its borders. It is necessary to define this precisely in order to avoid confusion, as “sovereignty” is a complex and ambiguous concept. The emphasis we want to point out is the genesis of the right to legitimate arbitration. This right, in fact, originates from the social contract, in which citizens delegate the arbitration right to the government, which in turn allows the government to resolve disputes between citizens, thus preventing the *bellum omnium contra omnes* scenario (Hobbes). Secondly, through the act of social contract, citizens constitute the constitutional and legal order, which at the same time prevents the government’s illegitimate usurpation of the power it was given. (Locke, Kant). The government is limited by the Constitution and the sovereignty of an individual/citizen is reflected in the fact that he/she is the “source” of the Constitution.

[1] Such structure of these strategic concepts is common in discussions of the topics of state and globalization [see: Smith, 2002:2-8], except that certain papers do not treat ownership as a separate or isolated aspect.

Kant's formula "every man as a co-legislator" precisely describes what this is about.[2] The historical framework in which this "liberal" doctrine of sovereignty emerged and to which it was a scientific description is the nation-state, more precisely its "minimal state" version. Thus, the focus of our observation is the "Locke-Kant" concept of sovereignty within the "night watchman" state.

1.1. Ownership theory

According to the classical theory of Kant and Locke, the sense of the transfer of arbitration right among citizens to a single sovereign authority is "economic" (in the broad sense of the word). Adopting the Constitution, citizens meet the requirement for unanimity in the "constitutive" phase. After this, in the "post-constitutive" phase, the government acts as an arbitrator within the Constitution. If we were to require unanimity in the post-constitutive phase as well, it would be absurd and the society would be impossible – this would require a referendum decision for each question. This arrangement enables citizens to pursue their own affairs. This involves the appropriation of ownership on the basis of labour, as well as exchange. It also means that the constitutive framework (guaranteed by the government) is in fact a system of rules under which resources may be legitimately appropriated, exchanged and consumed (used).

Therefore, the ownership theory is not so evident but crucial factor in understanding sovereignty, because sovereignty does not exist in a vacuum of some sort; it is not an abstract legal concept. It is an actual here-and-now concept only if it is understood as ownership of property.[3] As each property in the final instance is linked to resources of the state, the standard definition of government, as an arbitrator between citizens/owners of private property on a territory, is the very essence of the thing. In this way, the liberal "Locke-Kant" theory of sovereignty denies the popular notion that "concepts of property (in private law) and sovereignty (in public law)" are in some sort of "dichotomy" and contrast. [Engerman, 2004:7] This also serves to clarify

[2] Although some authors believe that to say "the people are sovereign is not to say anything very precise", since "an entity as the 'people'"[Wallerstein, 1999:29] does not exist, the issue is in fact very clear and precise in the context of the Kant-Locke concept.

[3] This means that the state is not a "metaphysical fact", but a result of the historical development of society. Thus, sovereignty decline in itself does not necessarily represent something spectacular, because the "place" ("subject") of sovereignty is the "people", i.e. an individual.

the confusion in the formulation of “territorial sovereignty” – this in no way means (or implies) the “ownership” of territory (land, resources).[4] The state is simply an “agent authorized to exercise certain limited forms of control over the citizen’s private property.” [Engerman, 2004:8] “Territorial sovereignty” means that the state aspires to be the sole arbitrator (“agent”) on the territory, superior to external factors.

1.2. Globalization

According to the standard definition, the term “globalization” implies the “process of linking the world in economic, cultural, financial and other terms” [Stiglitz, 2002:9] or “time-space” compression”. [Smith, 1999:2] This is a process of building supranational, regional and international institutions and non-institutional connections. Obviously, this process goes beyond the borders of the nation-state, in various aspects. [see: Helleiner, 1999]

Reduction of the state is a complex and multi-dimensional process, reflected in the declining influence of the nation-state framework on the existence of man/individual. The key aspect that interests us here is the economic aspect of globalization – liberalization of the market, in terms of reducing the government’s capacity to regulate trade and particularly financial circulation. The significance of globalization in this aspect is such that it is often compared with the industrial revolution of the nineteenth century. The concept of “free” market itself, based on the internal logic of this concept, is “global”[5], in its final instances it includes all nations

[4] The practice of granting land ownership concessions to foreigners, particularly to “non-citizens”, shows how the state is simply an agent between the parties. [Engerman, 2004:10]

[5] Globalized world is naturally a “multicultural mash-up”, a “global village” and a model of interaction and blending of different cultures. Some authors argue that globalization is not at all a new phenomenon, because the key specifics that describe it, such as proliferation of communication, proliferation of capital, proliferation of international banking, migrations, or “spreading of ideas”, actually are not new [Krasner,1999:38-39] as they have been present ever since the late Middle Ages. However, the global free market and its underlying and accompanying ideology are, by their origin and pathos, a Western concept. [Gill, 1996:211] If not even narrower; as it is *one of* the Western ideologies, the term “neoliberal globalization” is often used. [Smith,1999:5] This is particularly evident in the doctrine of “human rights” which are, as such, superior to sovereignty of the state [Petersmann, 2008:29-31], but which are *eo ipso* a Western construction. The issue of primary importance to the main line of our argument is the question whether the globalization of market implies multiculturalism or Westernization. This question is crucial to understanding the status of sovereignty in globalization, because if the global market is possible only in the context of Westernization, then the nations of the world are obviously facing a Fukuyama-dilemma: Westernization with the market or closing without benefits of the global market. The range of sovereignty has obviously been significantly reduced. If participation in the global market is the only framework for economic growth and if the market is possible in its pro-Western version only, then “emancipation” *de facto* means Westernization [Engerman, 2004:17] and some kind

and all states. Economies of the countries that were once divided by high transport costs and political boundaries are now connected by a thick and increasing network of relationships. Globalization in this sense represents the transnationalization of the economy and the "free flow of the factors of production" ideal.

2. Reduction of sovereignty

Most theorists believe that the reduction of sovereignty in globalization occurs as a three-dimensional process. Firstly, it is a process of transferring decisions to supranational entities, such as the European Union (EU), which are given the legislative powers in certain (many) aspects of social, economic and political life. Secondly, it represents an increasing inferiority of states in relation to requirements that come from some external institutions, such as the IMF, WB, WTO, etc. Based on their powers, these institutions are able to force the states to make certain decisions. Third, and perhaps the most interesting, there is a process in which large transnational corporations (TNC), based on their economic power, can influence economic and political decisions of sovereign states.

2.1. Supranational formations

Given the fact that, in the conditions of globalization, the market becomes supranational, it is logical to attempt to adapt the political framework to this reality and to create supranational political entities. A typical example of the reduction of sovereignty in the process of formation of supranational entities is the experience of the EU. An illustrative example from the EU experience is the policy of subsidies and support to economic sectors or enterprises of "national" importance for a member state. European Commission makes decisions on support policies, based on formal

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of absorption and assimilation. An explicit symbol of this is English as the world language of economic (and any other) global communication. This in turn means that the global market is *multipolar*, but not *multicultural*. [Hardt, 2000:5] Some theorists point to the aggression aspect present here, even arguing that here we have a political agenda – an attempt by the "top" to impose certain cultural tendencies which are necessary for the unhindered functioning of economic processes. Multiculturalism is here perceived not as a bottom-up process, but as a top-down ideology. If this is the case, then nations are not sovereign (or they have limited sovereignty) to accept the "hybridization" of culture, as this hybridization is imposed on them through sophisticated mechanisms of power. This means that the sovereignty decline is happening, but only in the "non-Western" (non-neoliberal) part of the planet.

but arbitrarily adopted criteria.[6] It is obvious that this practice dislocates the sovereign will of a nation to decide on the allocation of its own economic capacities to some sort of external entity. There were various attempts to overcome this democratic deficit, while remaining within the scope of the “Locke-Kant” scheme. We can point out two general models.[7]

The first of them is the top-down model. The concept of linking states into regional, supranational entities such as the EU is considered by many as an aspect of sovereignty decline, but it can be discussed in the opposite context as well. The idea is to preserve the classical form of sovereignty by expanding the scope; to introduce some sort of a supranational state formation instead of a nation-state. The general model, which is particularly discussed in the context of the “global state” idea, is the so-called “post-Westphalian transnational public sphere”, which would raise the concept of civil sovereignty to the “global” level or to the regional level in the previous phase. This model is actually a variation of the original Locke-Kant scheme of sovereignty, only expanded. The issue of democratic legitimacy here is reduced to the technological question of existence of a “planetary square” (owing to new communication technologies) or a global forum/agora and/or emergence of supranational elections for supranational parliaments.[8] The emergence of a planetary public sphere would *de facto* mean the following: sovereignty of nation-states is abolished, but sovereignty of the nations (the people) remains. However, the experience of the EU has shown that efficient functioning of a transnational public sphere is problematic.[9] This is reflected in the fact that decisions are made within the circle of institutions and elites which often lack democratic legitimacy and it clearly demonstrates the problem of “Locke-Kant” legitimacy of supranational institutions. [Nash,2007:53-54]

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[6] While going through the economic crisis, Slovenia granted 10 million Euros to its manufacturer of winter sports equipment *Elan.* A competing company filed an appeal to the EC. The EC allowed the appeal and the funds were ordered to be returned.

[7] One of these is the *European Citizens Initiative* which, under certain conditions, gives the power to the EU residents to directly influence decisions of the EU institutions. The Treaty of Lisbon provides that the signatures of one million citizens from seven different EU member states impose a duty to the EU institutions to take into account the will. An example of such initiative was *Right2water.*

[8] The “cosmopolitan democracy” project requires a very complex (“multilevel”) system of legal protection, based on the principle of individual rights, not on the principle of collective rights. [Petersmann, 2008:45]

[9] The idea of global market is obviously compatible with the idea of “global” society. However, these processes happen at different speeds. While the global market is progressing well, the idea of planetary society is lagging behind, sometimes even going in the opposite direction.

The second one is the bottom-up model. Contrary to the previous one, this model proposes policies of decentralization and transfer of power to local areas and regional levels. [Castells, 2008:81-90] It can occur in the form of secessionist movements. The theoretical model that promotes this option of the radical decline of sovereignty of nation-states and transfer of power to local levels is *anarcho-capitalism*, a radical libertarian branch. It promotes the politics of secession of regional and local entities from the central government. [Savanovic, 2011] The arguments here are not national, as has been the case with some recent cases (Crimea, Catalonia, etc.), but strictly economic – the need for local communities to handle their own tax money, instead of transferring it to the national government.[10] The idea of world policies which is evoked here is similar to the medieval Italian merchant cities.

The crisis of sovereignty which accompanies the attempt to overcome the democratic deficit with a supranational political entity (that is, the failure of this project) thus results in the opposite effect, facilitating various secessionist movements and politics of localism. In our opinion, it is still unclear how the situation in this regard will develop and which of these – the emergence of global square or atomization into local communities of the world connected into a unique planetary system of trade – will prevail.

[10] The most recent case of this kind was that of Veneto. The region Veneto pays 70 billion Euros per year, in addition to 9 billion for interest of the Italian public debt. Federico Caner, the leader of the Northern League in Venice, claims that Veneto gives to Rome 20 billion Euros more than it receives from Rome through investments and services. The surplus is transferred to the poor and "lazy" South. Paolo Bernardini, a history professor, claims that Venice is "suffocated by the Italian fiscal pressure", which amounts to "60%, sometimes even 70%" and is "one of the greatest fiscal pressures in the world". An online referendum was held between 17th and 21st March 2014 and more than 89% voted in favour of the independence of the region. President of the region Veneto, Luca Zaia supports this movement. When the results of the referendum were published in Padua, several hundred activists waved the flags of the Republic of Venice. *League Veneto* plans to retain directly collected taxes as of June this year. After this, they will gradually deny Rome the payment of indirect taxes and social contributions as well. Payments for the so-called "European debt" are not being questioned for now. The referendum was declared unconstitutional by a standard argument that it was a unilateral act of secession. As such, it is illegal, because Veneto, at the Italian Unification, voluntarily entered into the "contractual" relationship with other parts of the state and this kind of multilateral contractual relationship cannot be terminated by the will of one of the parties. Scotland is cited as an example of a legitimate referendum. The referendum to be held there was agreed with the central government in London. The exception in this case is Kosovo, where the secession is obviously a unilateral act. However, Kosovo is seen as *sui generis* through the argument of repression of the government in Belgrade; even though this is a unilateral act, it is legitimate because the state applied the politics of repression toward the Kosovars, acting as a "tyrant".

2.2. Bretton Woods's "Unholy Trinity"

The second form of the reduction of sovereignty of the nation-state is a consequence of the growing opportunities of international financial and economic institutions, such as the IMF, WB and WTO, to impose rules of conduct on governments of sovereign states. This *eo ipso* implies the reduction of sovereign will of the people.

There are plenty of works dealing with the problem of efficiency of policies [Chang, 2007:vii-xxi,3-15][11] promoted by the IMF. Many also consider this to be a pure neocolonialism. Some authors believe that these policies are not only wrong, but also "consciously" wrong – they are deliberately a detriment to targeted states. [Stiglitz, 2001] Thus, we have the "Unholy Trinity" of the IMF, WB and WTO. [Chang, 2007:15] We will not discuss this topic here. We are interested in the fact that forcing certain political and legal measures by an external institution, which lacks democratic legitimacy, obviously represents interference in the will of a sovereign entity.

A typical case was the recent debate between the Council of Ministers of BH and the IMF on the proposal of the "Labour Law" of February 2014. The IMF insists that the payment of the tranche depends on the adoption of a new labour law. Without going into the economic feasibility of this request, it is obvious that with this the IMF takes over the legislative function from the Parliament (the people). The IMF is not satisfied with collecting interest on the borrowed money, but it also tends to model the internal political relations in the state. This case typically demonstrates how one of the basic functions/responsibilities of the state becomes meaningless – in this case, the adoption of public law regulations approved by the citizens.[12]

These problems are particularly manifested in times of crisis and the crisis serves as an instrument for imposing political reforms. International financial

[11] There are many authors who believe that a standard measure the IMF insists on, namely reduction of the budget deficit has adverse effects on certain strategically important economic parameters, such as building the infrastructure and increasing the educational level of population. The second standard measure, reduction of the domestic credit level, certainly has negative effects on the sector of small and medium businesses, etc. The third standard measure, reduction of trade barriers, encourages uncontrolled spending, at the expense of saving. The fourth standard measure, price freeing, encourages the emergence of domestic monopolies, etc. [Samli, 2008:127]

[12] "Bretton-Woods" institutions have fundamentally altered their original functions. The original function of the IMF was to help states solve their deficit problems, while the WB was supposed to support the reconstruction after the World War II. After the neoliberal turn in the early 1980s, these institutions began to strongly intervene in political relations within states. The justification for exceeding the original mandate was found in the logic by which non-economic problems significantly affect the economy. For example, since the budget deficit is largely a result of the recovery of inefficient public enterprises, the requirement for extensive privatization was set. [Chang, 2007:15-16]

institutions set strict conditions for aid, requiring a reduction of the public sector, wage cuts in the public sector, as well as privatization of many sectors that have traditionally been “public” (education, health care, pension system), through the public-private partnership model, etc. [Stiglitz, 2001]

This very often leads toward directly non-democratic practices and a direct violation of the sovereign will of the people. It is very difficult to implement the restrictive nature of these measures in standard governments, which must respect the wishes of voters. This is often overcome through the appointment of so-called “technical” or “technocratic” governments, which are not directly accountable to voters. Their mandate is awarded with the clear aim of implementing unpopular measures, as in the case of the Monti and Papademos governments in Italy and Greece respectively. This explicitly illustrates the basic idea behind our article: the loss of economic sovereignty also implies the loss of political sovereignty. As a consequence of the economic collapse, the national Parliament of Greece was practically forced to accept by acclamation everything creditors asked them to. This clearly and unambiguously represents a disregard for the sovereign will of the state’s citizens.

2.3. Corporations: An argument of the “Empire”?

The third form of reduction of sovereignty occurs due to the situation in which certain TNCs/private companies have such a great economic power and political influence based on this power that enable them to model policies of sovereign states. This topic has caused considerable controversy in the political theory recently. [Uhlin, 1988:233] The literature dealing with this topic has become extremely more extensive in the past decade, due to its complex effects on certain classical political concepts.

Data on the control over resources/wealth speak for themselves. [see: UNCTAD, 2007] For example, at one point the 500 largest TNCs controlled 42% of the world’s wealth; of the 100 largest economies in the world, 51 are large TNCs and 49 nation-states [Anderson, 2004:4]; TNCs are involved in 70% of the world trade; GM and Ford are bigger than the GDP of total sub-Saharan states of Africa. [Samli, 2008:43] Large companies, such as *General Motors, Wall Mart, Daimler Chrysler, Shell, BP, IBM* and similar, with their economic power and capacities exceed almost all states in the world, except the ten richest. [see: Strange, 1996] This is also true for certain families, so-called “financial dynasties”, even for certain individuals, whose wealth greatly exceeds capacities of many states. These people are able to actively modify the political organization of the states, if they wish to do so.

Owing primarily to the supermobility of financial capital[13] (based on the expansion of communication technologies), large companies are able to dictate terms to national governments, *de facto* imposing the rules of the "Washington consensus", which favour TNCs. This power makes the appropriation of resources relatively easy for them. Rules of the free market are imposed on all and they provide TNCs with enormous freedom and an ample space for their activities. On the other hand, the mobility of financial capital reduces the ability of states to collect taxes on the capital. States are forced to be "hospitable". These two factors put TNCs in a superior position in relation to the state. If we observe the state as a form of realization of the people's sovereignty, then TNCs are superior to the people as well.

This process extends to such proportions that certain strategic policies have become practically impossible. Welfare State as a social democracy concept became almost inapplicable in the developing countries, because it entails high customs duties and tax burden on capital. Naturally, the capital will "escape" to a country with lower customs duties/taxes. Damage will be greater to the government and the population.[14] The fact that parties cannot autonomously define their policies, for example in the field of social protection[15], significantly reduces the state's credibility, because states cannot have enforceable "national" economic policies. It is obvious that citizens are not able to make autonomous (sovereign) political decisions through the government, even in the broadest perspective of the world, because these decisions must be adapted to the will of external factors.[16] In this context we can even discuss whether

[13] The same process, albeit less dramatically, is also going on in the "real" sector: the transition from industrial production as a system that requires the centralization of labour force and production capacities towards "centres which became cities-factories, such as Manchester, Osaka and Detroit" [Hardt, 2000:294] to IT production which allowed deterritorialization and decentralization of production, and in some areas even abolished the "place" of work [notebook enabled a large number of occupations in the tertiary sector to work wherever they want], represents the expression of this process in the field of contemporary work.

[14] A special aspect is that the stimulation of consumption with the aim of increasing production is not efficient because capital goes from the state. Since companies are independent from domestic demand of the state they operate in, they are not interested in increasing wages. Therefore, Keynes-scheme is no longer a framework which can function.

[15] *Prima facie* evidence is the tendency to privatize public sectors, which have traditionally been under the jurisdiction of the state, such as health care, education, pension system, and even the justice and police functions. The market domain is expanding at the expense of superseding the state.

[16] This is clearly evident in policies imposed on the so-called "transition" societies. Privatization was imposed as the key issue of transition, in addition to the obvious shift to the multi-party parliamentary democracy. Privatization is treated in the context of maximum opening of markets, deregulation and

TNCs, in spite of being formally "apolitical", actually became a form of *de facto* states or semi-sovereign entities – the subject of sovereignty in the Territory-Citizens-Government scheme. This is controversial, because TNCs retain the economic aspect of existence, without becoming engaged in the classical sovereignty.[17]

Although citizens of any state may force the government to get out of this kind of arrangement, they are obviously *formally* sovereign. However, the reality is different, as disobedience would be punished by exclusion (formal or informal) from the world's economic life. Of course, small states are the first under attack[18], but even large ones do not receive amnesty. Certain authors believe that the critical question for this topic is the issue of "size" of the state. [Vlcek, 2008:1,10-18] But in the context of our discussion, this is not the case. The myth of the "too-big-to-fall" in crisis of 2009 showed that large companies can threaten even the Government of the USA. A specific fact is that TNCs employ a large part of the population of states and therefore have the ability to put pressure on the governments by threatening layoffs. The data are very interesting. For example, a company such as *Wall Mart* employs more than one million workers. Similar to the problem of the political implications of monopoly, here we have a situation where a powerful company can use informal pressure to

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liberalization. These processes directly lead to the reduction of power of the state. [The World Bank, 2002:71-80]

[17] In the debate between the OECD and small states OFC (Offshore Financial Center) on "Tax Competition", some of the arguments we analyze here were exacerbated both theoretically and practically. Thus, the OFC representatives insisted on the following:

(i) OECD represents a tool in the hands of the powerful G7 member states against small states (offshore finance is a "method for economic development" and its prevention is blocking the development of small states);

(ii) The campaign carried out under the name "Harmful Tax Competition Initiative" violates the sovereignty of small states [Vlcek, 2008:3], as it makes it impossible for them to independently determine their economic and financial space (organization) – this is directly contrary to the idea that communities freely and independently determine their legal framework (in this case their tax system) [Vlcek, 2008:27-30];

(iii) The campaign is contrary to the principles of free market: "harmful" is contradictory with "competition" [Vlcek, 2008:51-56, 62-63];

The concept proposed by the author is based on the right of states (communities) to independently determine their own tax policies, without direct interference of external factors. However, in this paper we want to show that even in the scenario that excludes direct institutional pressure on the tax legislation it is still possible to talk about the reduction of sovereignty, simply based on the power that comes from a superior economic position. For instance, companies will not invest based simply on tax incentives, but will require infrastructure, educated yet cheap labour force, "appropriate" political climate, etc. [Vlcek, 2008:8] Therefore, the right to "tax competition" formally represents the preservation of sovereignty. However, if we look deeper into the problem, at the same time, through a side entrance, it introduces the possibility for major stakeholders to reduce sovereignty. "Hospitality" to capital is a euphemism used to describe this.

[18] "Size" also plays a role in the first two models of the reduction of sovereignty, since "large" countries get more say than "small" ones in the decision-making at the level of supranational entities [Jackson, 2008:17-18], while at the same time having more influence on international organizations. [Jackson, 2008:22; Chang, 2007:19-20]

extort the adoption of a legislation that would not have been made were it not for this (latent) coercion.

The economic power of large TNCs enables them to dictate the political framework within states. They promote deregulation policies and are able to force governments to become “smaller”.[19] This process is a self-reinforcing loop, because the crisis of the state and its defensive role against external factors facilitate the enforcement of policies of sovereignty decline and general anti-statism. [Wallerstein, 1999:31] The crisis of sovereignty manifests itself as a crisis of legitimacy of the state, because the confidence of voters in their elected representatives decreases constantly. That is, voters no longer have confidence in their representatives’ ability to perform the original function they were elected for and which was created through the classical concept of constitutionalism. There is no doubt that the democratic gap has widened.[20] Many authors in the past decade drew attention to the fact that capitalism, in its corporative and globalization power, not only leads to the erosion of sovereignty, but also endengeres democracy [Chang, 2007:156-159] and sometimes even “kills” democracy. [Hertz, 2001]

Generally, this is a criticism of the exploitation and neocolonialism, where the doctrine of neoliberal capitalism is used to crush resistance:

> „When companies with budgets and economic powers greater than many nation-states make certain decisions and dictate the conditions under which they will conduct business in small countries or regions, they are exercising the modern version of imperialism.“ [Samli,2008:64]

Two standard neoliberal arguments are used as a response to this charge. The first is that resources of the planet are owned by “humankind” and that the proliferation of capital therefore cannot be regarded as problematically legitimate in any way.[21]

[19] Besides the obvious possibility to finance election campaigns and to lobby for their political favourites in order to make future elected representatives “indebted” to them, they control states by virtue of their power. Economic power is at the same time political power, and each economy is more or less a political economy.

[20] Relevant research has shown an increasing public concern regarding the increasing power of TNCs in comparison with political representatives. Thus, a research carried out in 2000 showed that between 72% and 82% of Americans believed that companies had too much power and too much influence on the political life of the state. [Bernstein, 2000]

[21] According to the Locke concept this theoretical position is not correct, because resources are “of humankind” only “potentially”, but not “currently”. The nature is “given” to the man to use it, but it is given to the man as a generic concept, while the ownership exists only as private ownership.

The second argument is the so-called centre/periphery scheme: it is argued that this is actually an emancipatory win-win process, based on the fact that capital is allocated from the sphere of lower productivity to the sphere of higher productivity. [Chang, 2007:69-87] In final instances this implies an increase in the general standard of humankind and progress *ad definitionem*. The entry of TNCs "accelerates" economic development and the level of productive exploitation of resources, thus also increasing the GDP of a state. In addition, it is important to note that political control over resources often demonstrates hints of incompetence (inferior competence) when compared with the private one and therefore increases the poor allocation. It is not just that the state as such is a Leviathan and that the state tax policy represents a less efficient allocation of tax funds in all cases [Jeffrery, 1999:22-23], but also that governments are often incompetent and/or corrupt, especially in developing countries. Even though the state's resources belong to the people, these governments exploit them for their own benefit. This explains the paradox that many resource-rich states (especially in Africa) have extremely low standards of the population.[22] The problem lies in the fact that TNCs do not work with the "people" but with governments. It is often favourable for them if a government is incompetent and/or corrupt. [Soros,2012:73] Quite often, on the other hand, TNCs find it useful if these governments are "strong" and dictatorial. Such governments surrender national resources below cost.[23] If we return to the definition of sovereignty, which states that the "people" is the owner of resources (in terms of creating the rules under which they are used within a given territory), while the government is the arbitrator, it is clear that this is *eo ipso* a violation of sovereignty. Certain authors call this situation an *asymmetric agency problem* [Soros, 2012:72-73], through which "poorer countries" are reduced to the role of "exploit platforms" for TNCs. [Smith, 1999:4]

Michael Hardt and Antonio Negri radicalized this argument, developing it into the concept of "Empire" which connects all three aspects we discuss here:

> „Empire is materializing before our very eyes... Along with the global market and global circuits of production has emerged a global order, a new logic and structure of rule —in short, a new

[22] There are countless examples of this type of situation. We can take Namibia as an example, where in 2000 one of the major diamond retailers manufactured diamonds valued at $600 million, while at the same time 60% of Namibians lived without basic sanitary living conditions. [Chua, 2003] See also an early example of these situations in Nigeria. [Biersteker, 1980]

[23] Formal justification is the centre-periphery pattern: lack of technology, knowledge and financial resources for an independent exploitation of resources.

form of sovereignty. Empire is the political subject that effectively regulates these global exchanges, the sovereign power that governs the world.“ [Hardt, 2000:xi]

This quote refers to the fundamental assertion that the decline of sovereignty of nation-states does not entail an automatic abrogation of sovereignty as such, but its realization in a new form.

„Sovereignty has taken a new form, composed of a series of national and supranational organisms united under a single logic of rule. This new global form of sovereignty is what we call Empire ... Empire establishes no territorial center of power and does not rely on fixed boundaries or barriers. It is a *decentered* and *deterritorializing* apparatus of rule“. [Hardt, 2000:xii]

The system is “diffuse” and “decentralized” as it does not have one centre but centres of management, in terms of the complex apparatus of interlocking organizations such as the UN, EU, IMF, WB, WTO, GATT, OPEC, ASEAN, NATO, etc., as well as the major nation-states which are mutually linked through various institutions, such as the G7, Paris and London Club, Davos, etc., and a few major cities (such as New York, London and Tokyo). The network of international law legislation, as well as its multiple “sources” (subjects) and its complex and intertwined genesis, correspond to this complexity. [Petersmann, 2008:33] The complex of TNCs and international institutions[24] represents an emergence of a specific sub-state structure that is no longer linked with the classical form of political sovereignty: “There is no *place* of power - it is both everywhere and nowhere. Empire is an *ou-topia,* or really a *non-place.*” [Hardt,2000:190]

The role of nation-states and their governments is reduced to the discipline of population on a certain territory. They no longer speak on behalf of the people. Instead, they “discipline” the will of the people (biopolitics) pursuant to what the “Empire”, centre, TNC or similar stipulated as possible or desirable.

The scheme shifted from the people establishing institutions and rules and choosing policies (strategies) implemented by the government through the

[24] A special subset of this phenomenon is the corporation/state coalition: the situation in which the state uses a corporation as a means of political pressure on the sovereignty of another state (in this context we can observe Russia’s utilization of Gazprom in the Ukrainian crisis), and vice versa – the use of political and military instruments of the state by powerful economic factors (in this context, we can mention the instrumentalization of the USA’s resources by Wall Street). However, some authors believe that this situation has been changing, because in today’s economy the economic power is being separated from the military power [Amigi, 1999:55], which represents one of the factors of sovereignty decline in economic terms. Economic sovereignty may become independent from political sovereignty, based on the fact that capital is no longer crucially linked to the military power and the war itself is becoming increasingly “uneconomic”.

Constitution, to the government and parliament adapting the citizens (their wishes, demands and needs) to the demands of an entity called “centre”.

3. Conclusion

It is obvious that the reduction of sovereignty of nation-state, in the aspect we discuss here, is not a reversible process. Although the state remains an important factor on the global economic stage, control of resources through nation-state sovereignty is under attack of various formal and informal factors. The state is forced to implement multiple transfers of sovereignty: to supranational formations and international institutions such as the IMF, WB, WTO, but also in accordance with requirements of the corporate world.

In principle, sovereignty of the individual and the nation is not affected by the processes of globalization. Citizens still have a formal *de iure* possibility to control the government’s work. On the other hand, the government may be revoked only by the people (i.e. by its elected representatives), not by foreign centres. The state remains the dominant source of “legitimate” power. Formally and legally, states have not lost their self-control. [Sassen, 1999:160] Also, TNCs have remained at the level of legal entities and, as such, they enter standard voluntary bilateral contract relationships with states and/or individuals within the states. Formally, there is no coercion or exploitation here, because contractual relationships formally represent a free choice of both parties.[25]

[25] Based on this, many authors, especially in the early stages of exploring the relation between globalization and sovereignty, took the stance opposite to our argument, claiming that “states still matter”. Some of the arguments presented for this purpose are theoretically problematic, e.g. they state that markets are “irrational” and that they need to be politically controlled [Smith, 1999:7]. On the other hand, other arguments are part of our argument, but interpreted differently. For example, the claim that corporations need a political authority that maintains the order for the functioning of the market is correct. However, to conclude on the basis of this that the sovereignty decline in the state represents a “pseudo issue of globalization” [Wallerstein, 1999:33] is wrong. In fact, we argue that TNCs may be decisive for the content of “order”. For example, the state, both formally and *de iure,* adopts and implements the “order” in the context of guaranteeing “patent” as ownership rights, but TNCs can impose this rule (and its variations) as a *de facto* content. A subtle difference which explains this situation *de iure* vs. *de facto* (with the conclusion opposite to ours) is the difference between “control” and “authority”, proposed by Stephen Krasner. [Krasner, 1999:37] The shift of “control” toward supranational factors at the same time reduces the role of “authority” to a disciplinary function.

Saskia Sassen considers that the “decision” to implement globalization as “neoliberal globalization” indicates that here we have a “socially constructed reform”, that is, a social (political) decision. [Sassen, 1999] This decision as such implies the sovereign will of the political body. However, this claim indicates that globalization as a historical process has its creators (rational ones), not only

However, *de facto*, the reality no longer complies with the theoretical framework. Governments are blackmailed by centres of financial/economic power and they actually have to implement their agendas, instead of implementing those of voters. A key task of the government is no longer to materialize the citizens' will, but to persuade the citizens that these externally imposed policies actually represent their own interest and will. "Democratic gap" is so great that some authors believe that in this situation not only sovereignty comes into question, but also the existence of a political community in its classical meaning. [Habermas, 2001:70]

The situation is such that external factors are in the position to instrumentalize governments for their own interest. Even though the form of free bilateral relations between the state and international institutions and between the state and TNCs preserves the formal side of sovereignty, the states still (i) [if they want to take part in the global economy] lose the ability to make their own legislation; (ii) [if they want to attract capital] lose the ability to control the economic life of the state through the system of customs duties and/or taxes; (iii) on the basis of this lose control over the exploitation of resources. This implies that globalization affects the key state prerogatives and the supremacy of state power.

Based on this, an increasing number of authors see globalization as a process of the economic decline of sovereignty of nations and states and therefore as a new form of post-postmodern neocolonialism [Zhongying, 2005], appropriate for the high-tech environment of the 21st century. The existence of such a situation and its visibility also shift the global market concept and globalization paradigm from the progressive "no-zero-score-game" vision toward what could be called a match in which the rules and referees favour the stronger team.

If we apply the classical conception of sovereignty, which links sovereignty to the state, then this assessment is easily understandable, because here we have a question to which extent, if at all, governments have the ability to manage resources of the state. The classical scheme of sovereignty is indeed becoming problematic, *but only in the form of a state*. But if we look into sovereignty as the right of citizens to

actors. "Neoliberal" globalization is modelled through political consensus, but this consensus was preceded by the historical development of technology, communications and similar, which was not ex ante programmed in Hayek's sense.

determine rules based on which the arbitrator (government or another entity) is to regulate relations between citizens (owners of capital), then the situation becomes complicated. [Petersmann, 2008:28] Citizens still have the right to accept or reject arrangements, that is, they remain the place (subject) of sovereignty.

However, our thesis is that in fact here we have another type of process – transformation of the classical conception of sovereignty through which economic sovereignty becomes the dominant aspect of sovereignty, which tends to suppress other aspects of sovereignty, turning them into mere words. For this to be pointed out, the common terminology "rich/poor" or "small/large" states should be replaced with "weak/strong" states, [Wallerstein, 1999:20] which is a better pair of terms for the description of our argument. The meaning of the word "power" is crucial to our argument. Namely, "power is not a theoretically (that is, legally) unlimited authority. Power is measured by results." [Wallerstein, 1999:23] States really do have the legal authority, but their power, measured by what they can or cannot obtain, is limited.[26] This is explicitly confirmed by the term "deregulation": "deregulation" is a reduction of the legislative scope of the state in the sphere of economy. This means that "deregulation" only represents another term for "decline of sovereignty". Changes in the international economic law, that is, their tendencies, are exactly what clearly suggests what is going on here. [Jackson, 2008:23-25]

It is possible to understand this question only in the context of a subtle yet decisive connection between sovereignty and ownership. Our working hypothesis is that being sovereign implies that one is actually, *de facto*, able to manage the resources, i.e. able to impose *the rules of appropriation, exchange and use of resources*.[27] We call this the economic sovereignty. It is represented by the "people"/citizens of the state in the framework of nation-state and in the "Westphalian" system. However, in the globalized world, it is increasingly represented by other factors. Still, both politically and legally, the final instance of a decision is in the hands

[26] Saskia Sassen analyzes the interesting case of Japan, "one of the most powerful countries in the world", opposing the IASC standards, which in the end proved that even such a powerful state eventually must comply with the rules imposed by a private entity. [Sassen, 1999:163-164]

[27] Some of the key neoliberal philosophies reflect this tendency. Thus, F.A.Hayek develops the concept of "theory of rules" in the law, according to which the genesis of a legal system is absolutely irrelevant to its validity. In order for a system of rules to be legitimate, it only must be applied equally for all. Whether it occurred under social contract ("every man is a co-legislator") or it was externally imposed is not crucial to the question of legitimacy. In this way, the Locke-Kant tradition of "consent" as a cardinal condition that ensures sovereignty of the people/citizens is abandoned.

of the people; citizens *de iure* remain the subject of sovereignty.[28] But, *de facto*, they are no longer in this position. Since it is not possible to analyze or criticize this situation if one remains at the level of legal propositions, we need a different conceptual framework. One of its aspects is the promotion of economic sovereignty as the key content of the term “sovereignty”[29].

3.1. Economic sovereignty

Meaning of the term “economic sovereignty” is not entirely clear and is often a source of misunderstandings. Literature uses this term in at least four meanings.

(i) “State” ownership.

(ii) Self-sufficiency [αντάρκεια]: the thesis is that a state is economically sovereign if it is able to meet the needs of its population based on its own resources and its own reproduction.

(iii) Lack of budget deficit and subsequent lack of indebtedness to foreign creditors (commercial or institutional). Financial stability of the state and regular servicing of the budget.

(iv) Ability of the “state” to independently decide on the use of its own resources (policies).

The fourth meaning is critical to the topic of this paper, given that (i) is a historically rejected concept and that (ii) and (iii)[30] are *de facto* impossible in the conditions of the contemporary world. “Independent decision-making on own resources” involves specific factors, such as currency control, credit channeling and interest rates, freedom of capital movement (import and export), and selection of trade (economic)

[28] An important term “harmonization”, [Kindleberger, 1987:70] which is at times used (as an alternative to “deregulation”) to emphasize the difference to “globalization”, points out the element of “freedom” in the decision to comply with broader rules.

[29] Krasner distinguishes between four meanings of the word “sovereignty”: 1) “interdependence” (“ability of a government to actually control activities within and across its border“); 2) “domestic” (“organization of authority within a given polity“); 3) “Westphalian”; and 4) “international legal”. He claims that “it is possible to have one without having others”. [Krasner, 1999:35] Our argument complies with this scheme, as we claim the following: 1) and 2) are suppressed in the context of economic sovereignty, and 3) and 4) do not function at full capacity *de facto*, although they do function *de iure*. This is why our conclusion differs from Krasner’s: “globalization is not transforming sovereignty” [Krasner, 1999:36, 40].

[30] Historical experience has shown that the tendency toward self-closing by rule occurs in response to the crisis and major economic shocks. [Smith, 1999:12] However, in terms of the contemporary world, this is not an option viable in the long term, except at the cost of extreme economic inefficiency and stagnation.

partners.[31] The key fact we emphasized in the introduction is that these rules are, in the final instance, the sovereign will of the citizens. [The state is merely an "agency"]

In this context, the citizens' ability to control resources is decreasing. They are no longer able to sovereignly create rules under which it is possible to legitimately appropriate resources through the institutions of the state.[32] Instead, these rules are imposed from the outside. Given that such imposed rules are quite often contrary to the optimal allocation in the given state and that the citizens must accept the government's decision to comply with these rules, it is obvious that government and citizens are not economically sovereign. Although politically sovereign, they are not economically sovereign. Political sovereignty becomes a chimera, an empty word whose meaning is increasingly symbolic, while the real power and real sovereignty are manifested in the issue of formulation of resource use rules.[33]

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[31] Characteristics of sovereignty in economic terms are: 1) The existence of a central monetary institution "which has a discretionary power to change the amount of money in circulation and to impact the formation of short-term interest rates; 2) The possibility of issuing public debt, accompanied by the flexibility of the policy of public expenditure in accordance with the direction of business cycle… 3) The possibility to influence the exchange rate by which it is possible to stimulate the exchange of goods and services with foreign countries, as well as capital flows." [Čaušević, 2004:] A specific aspect of "economic sovereignty" is "fiscal sovereignty" – as a control of tax structure. [Vlcek,2008:xii]

[32] It is in this context that we perceive the formula "de-nationalization of national territory". [Helleiner, Smirth, 1999:13]

[33] The argument being set up in this way, the "main" question of whether globalization ultimately leads to the complete disappearance of the state from the historical stage has become irrelevant. The state remains (or not), but no longer as a framework of sovereignty of nations, but as an instrument of external factors.

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