

**THE SOVEREIGNTY CONUNDRUM:
BETWEEN TERRITORY AND AUTHORITY IN
CONTEMPORARY GLOBAL POLITICS**

by

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Declaration

I hereby declare that this dissertation contains no materials accepted for any other degrees at any other institutions. The dissertation contains no materials written and/or published by any other person, except where appropriate acknowledgement is made in the form of a bibliographical reference.

Budapest, 27 March 2023

A handwritten signature in blue ink, appearing to be 'R. Radnoti', with a small superscript '1' at the end.

Andras Radnoti

Abstract

This study explores the conceptual macrostructure of international politics. It argues that sovereignty is a condition of legitimate authority, as it alone delineates the boundaries of the authority's jurisdiction, that is, the group of the authority's subjects. That sovereignty should do so on the principle of territory, not some other principle, and that the territorially sovereign instances should be states as currently constituted, are merely contingent facts – yet in the given empirical circumstances, they present a grave moral problem. Globalisation drives power to migrate above states, meaning that authority is bound to the wrong level. Deterritorialisation drives the emergence of power agents not bound to territory in any substantive way, meaning that authority is bound to the wrong principle. Both empirical processes therefore drive the rule of non-sovereign, that is, illegitimate, rule. The thesis discusses the cures presented for the same broad problem by cosmopolitan and other writers, but finds all – except for an implausible, fully-fledged world state – inadequate as inattentive to the limits imposed upon political reality by the conceptual structure. Finding that this structure – specifically, the contingent link between sovereignty and territory – needs to be challenged if a solution is to be found, the thesis sketches the contours of a possible solution: a movement towards a functional, rather than territorial, principle of sovereignty. It argues that a muted shift towards functional sovereignty has already taken place within the EU, and that such movement is inevitable more broadly, assuming that the desire for legitimate rule is sufficiently broadly shared.

Acknowledgements

This thesis was always going to be an enterprise at the limits. It was going to be a project dealing with an empirical problem, but focusing on concerns, and primarily using methods, pertaining to analytical political theory. I sensed when I embarked on this journey that few in today's heavily marketised academia, working within siloed discourses, would have time for something like this. I knew for a fact that I would not be at home at the international relations departments I knew. Certainly no longer at my old alma mater, the London School of Economics' IR department, though I may perhaps have been a decade earlier. I imagined I would not be at home at most philosophy departments, either. I was grateful and deeply humbled to find that I would be welcome at CEU's political science doctoral school under the supervision of Janos Kis.

The thesis, it now seems, is even more eclectic than I had imagined – but then I know now I can count on the school's tolerance. Weaving a single, and hopefully still somewhat coherent, narrative, it draws upon insights from literatures in the history of ideas, political theory, empirical international relations, economic theory, political geography, cultural anthropology, and more. That is because it is everything Gabor Toka, in the first-year dissertation seminar, told us a thesis should not be. It is a love affair: its subject is my long-standing, main theoretical concern – how globalisation and deterritorialisation affect legitimate authority as we know it – and therefore it discusses and builds on the extremely wide array of texts I have read and felt were relevant to the subject since well before I embarked upon the doctorate. The thesis is also deeply shaped by my experience in business and politics. In that respect, at least, it is a victim of my decision, at the end of the first

year of my PhD, to initiate a career outside of academia and build a consulting business, as well as my decision, made prior to joining CEU, to dedicate a not insignificant part of my energies to bringing about political change in Hungary.

The problem goes deeper. The project, I fear, has ultimately largely failed in resolving the problem it analyses. The original plan, or perhaps hope, included a fully-fledged original conception of sovereignty, one that would do away with the concept's link with territory and define jurisdiction based on another principle. In the end, the thesis includes consideration of possible alternatives and discussion of an original suggestion, but not its full development. Along with my interest, the thesis' focus has shifted to the analysis. This has to do with ability as well as practicability: I feel my talents, such as they are, may be better suited to synthetical and analytical undertakings than creative work. The diagnosis, therefore, takes up ten of the eleven chapters. My sincere hope is that while I may have failed in fully developing a workable alternative, through careful analysis of the conceptual structure of international politics, the moral problem driven by the clash of that structure with empirical realities, and the modest suggestion of a solution, I may have paved the way for others to try.

I hope my overall philosophical guiding stars – Isaiah Berlin and Michael Oakeshott – shine through in the style of this thesis. Their approach to philosophy, their firm priorities in approaching their subject – inquisitiveness over sense of direction, playfulness over order – has profoundly shaped my own take on work at CEU (and this is something in which Janos Kis has proven a deeply understanding partner). As such, my bibliography is a highly varied one. Theoretical and other interests pursued with varying degrees of seriousness, from cosmopolitan political

philosophy through the English School of international relations and the regulation of social media and crypto markets to Romantic poetry, as well as my fascination with the politics, societies, and cultures of Central and Eastern Europe will no doubt have left a mark, as has my commitment to the values of classical liberalism.

The supervision and friendship of Janos Kis has been a bottomless source of inspiration and confirmation; his dedication and gentle guidance was instrumental in bringing this project to conclusion. Thanks are also due to Alexander Astrov, Nenad Dmitrijevic, and Zoltan Miklosi at CEU for their consideration of and comments on various drafts of this text; to the IR department at the LSE, especially to Nicola Chelotti, Iver Neumann, and Peter Wilson; and to the Russian studies and politics faculty at the University of Bath, especially Ainius Lasas and Howard White, for help offered on the way to and/or during the PhD. My friends and colleagues at CEU also deserve thanks for conversations and support along the journey; special mention is due to Giorgia Brucato and Perica Jovchevski. I am immensely grateful to Pascal Cisse, whose genius has much improved the English and style of this thesis, as of most texts I have produced over the past decade. Thanks are due for conversations and emotional support offered by the many friends I am blessed with, including Gergely Balla, Balint Bekes, Kit Bicket, Pascal Cisse, Daniel Csala, Mihaly Foki, William Bullock Jenkins, Andras Kiss, Zsofia Naszados, Benedek Paskuj, and for partnership in focused work and encouragement, to Andras Spanyol. I would never have summoned the confidence to embark on this PhD without the conversation of my father, Sandor Radnoti, and I could not have completed it without the unfailing support of my mother, Judit Csaki, and indeed, I could not have hoped for a more tolerant and supportive partner

in life than Emilia Oriold. Finally, I'm grateful for the patience, loyalty, and support of those without whom this thesis may have been submitted years earlier (and perhaps turned out much better), but without whom my life would be much poorer: my main partners in work, Barnabas Mester, Domonkos Szabo, Tamas Szabo, the crews of Millennium Emerging Europe and Sastre Consulting, as well as the brave people of Momentum Movement in Hungary.

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Foreword

“Und der Mücken werden immer mehr. Oft kann ich sie nicht mehr unterscheiden. Tausend habe ich zu Hause und komme nicht dazu, sie zu überschätzen. Bei Nacht sehen sie wie Zeitungspapier aus und jedes einzelne Stück lacht mich an, ob ich nun endlich auch ihm die Verbindung mit dem Weltgeist gönnen wolle, von dem es stammt. Gegen die Plage dieser Ephemerer gibt es keinen Schutz, als sie unsterblich zu machen.”

Karl Kraus: Untergang der Welt durch schwarze Magie (1912)

In 2022, the last full year before this thesis was submitted, some 1.4 trillion dollars were eliminated in cryptocurrency markets – a sum roughly equal to the GDP of Spain was lost altogether in markets that are largely unregulated by states. 2022 was also Europe’s second-warmest year on record (2020 was the first), beyond reasonable doubt the product of climate change, a process of which global society has been conscious for decades, but unable to effectively address. It was also a year in which a technology entrepreneur who identifies as a “free speech fundamentalist” bought Twitter, one of the US’ two predominant social media platforms – notoriously, largely unregulated by states – and granted access to the platform to former president Donald Trump, whose 2016 election victory had been demonstrated to have been partly the result of a mass social media manipulation campaign, and following whose defeat in 2020 a violent mob, incited by conspiracy theories peddled on those platforms, attempted a coup d’état. Also in 2022, as a result of a war between Russia and Ukraine, but also because of the rise of the Islamic State terrorist group in the weak states of the Sahel, global terrorism, both traditional and cyber, grew significantly in both the frequency of attacks and their deadliness.

To attribute these trends to the waning power of sovereign states is to reiterate a cliché: that sovereign states have, over the past decades, become less powerful, that they have no control over an increasing number of phenomena, and that their power and control continue to wane today. That is the cliché this thesis is concerned with. It starts out from broad agreement with the cliché. It asks why, indeed, it is the case that states are growing less powerful. It asks whether this should worry us, and why. Finally, it asks what could possibly be done about this.

Since this is broadly a work of political theory, essentially a sub-discipline of moral philosophy, the perspective from which the thesis approaches its subject is one of moral concern. Sovereign states may be good or bad, but their authority is at least sometimes legitimate. Traditional, ‘domestic’ political theory has produced at least a few arguably successful justifications for their authority. That is not the case for any other kind of political authority. Hardly any examples of legitimate authority beyond sovereign states exist in our world, I will argue in this thesis. Power exercised by private agents, where it is beyond the purview of sovereign states, where it challenges, undercuts, subverts, or pretends to replace them, is illegitimate. International organisations, for want of the power that states bear, remain unable to rein them in. This is a grave moral problem, and one that is growing in scale and severity. If that is so, the question we need to ask is what kind of authorities are needed to address the problem, what could match the private power that sits at the problem’s roots. How would such authorities have to differ from sovereign state authority? What is it about sovereign state authority that precludes it from rising to the challenge?

To understand this, we need to pick apart the challenge itself. Two connected trends are at work here. One is globalisation, the increasingly intense global flow of people, culture, and capital. Globalisation is causing the capacity, the power of states as they are currently constituted to act in certain fields, such as climate change, to migrate to levels above them. The second is deterritorialisation, the proliferation and growth of power agents and processes with only tenuous links to geographical space, such as the virtual economy, social media platforms, and terrorism. Deterritorialisation is causing the power of states, and indeed all state-

like, territorial political authorities to wane – without obviously moving somewhere else. The question, in other words, is what makes states states, and indeed, what makes them territorial.

In one word, that is sovereignty. Sovereignty is a concept that is much, and increasingly, used and misused in both political theory and practice but, I will wager, is little understood. Understanding it better – conceptualising it in a novel way to help understand the barriers to legitimate authority beyond states – is the first key aim of this thesis. That conception of sovereignty is what the thesis then uses to read globalisation and deterritorialisation, and what it calls the resultant problem of illegitimate rule. It also uses that conception of sovereignty to survey possible solutions, to finally find that the solution may lie in the conception itself.

(i) *Methods*

This thesis examines questions about legitimacy from a broadly ‘political realist’ standpoint. This means that I believe, with Oakeshott, that “political philosophy is the assimilation of political experience to an experience of the world in general” (1946:liii). Such an approach allows “greater autonomy to distinctively political thought” (Williams 1987:2-3). In line with Bernard Williams’ demands, and *contra* the moralism of much American political theory, it assumes a conception of the political where ideals are considered alongside more prosaic — but distinctively political — considerations, allowing for historical contingency as well as moral universals. In terms of its scope, the thesis of course aims for universal applicability, and to develop the conceptual tools required to conceive of legitimate authority beyond the state. It is, however, a mid-range project, in the sense that it does not

operate at a high level of abstraction, combining insights and approaches from empirical IR and political theory.

The use of a mixture of methods is thus naturally pertinent, though the main methodological bedrock of this thesis is conceptual analysis. My analysis of sovereignty aims to establish the concept's essence, its hard core. The conception of sovereignty I develop in Part One is then used as a theoretical lens to produce accounts of globalisation and deterritorialisation in Part Two; and it is to that conception that I return in search of a solution in Part Three. Nonetheless, on the way there I employ a smorgasbord of other standard methods of analytical political philosophy: I use thought experiments to “pump intuitions” and test the plausibility or desirability of propositions, and I use reflective equilibrium to measure evidence against considered judgments to ensure the coherence and plausibility of my own propositions. On occasion, I venture further, for instance to the philosophy of language, in search of a metaphor to promote deeper understanding of the moral problem I am concerned with, or the conceptual link I set out to analyse.

(ii) Outline

This is a thesis in monograph form. Each of its eleven chapters builds on the findings of the previous chapters, and even assumes them without spelling them out or defending them again in any significant detail. The whole of the argument is thus spread out over the eleven chapters. Unfortunately, that means that the argument only really sticks together when the thesis is read from beginning to end. Hopefully it also means that the text is, to the extent possible, parsimonious and non-repetitive.

The thesis proceeds in three parts, respectively focusing on the concepts, the theoretical problem, and the solution. Part One, consisting of three chapters, analyses the concept of sovereignty. This is where the thesis produces, through a detailed conceptual analysis with some historical sorties, the conception of sovereignty on which the rest of the argument relies. In a single sentence: it claims that sovereignty *establishes* final authority within a jurisdiction and *determines* the jurisdiction through an associated principle, the principle of territoriality. It argues that since political authority cannot be justified, or even conceptualised, without reference to its jurisdiction, sovereignty is a condition of political authority, but the link between sovereignty – and thus authority – and territoriality is historically contingent. A non-territorial account of sovereignty should therefore be possible.

Part Two, consisting of four chapters, addresses the key moral problem this thesis is concerned with. It argues that globalisation drives power away from states as they are currently constituted, to levels above them – while sovereignty, in its salient understanding as territorial and state-bound, locks legitimate authority to states. It calls this the *displaced authority argument*. It attempts to defend the displaced authority argument against three possible challenges: the argument that globalisation is retreating, the argument that it is fleeting, and the argument that the displaced authority problem can be addressed through the creation of international institutions. The next chapter considers deterritorialisation, arguing that it drives power away from territorial authorities as such – while, again, sovereignty locks legitimate authority to territorial instances. It calls this the *misplaced authority argument*. It attempts to defend this argument against two challenges: that deterritorialisation is overstated, and that the territoriality of political authority itself

carries moral weight. The final chapter in Part Two discusses the moral problem the displacement and the misplacement of authority create, *illegitimate rule*. It argues that global and non-territorial private power evades, undercuts, subverts, and pretends to replace the public authority states alone bear, since they alone are sovereign, resulting in a moral problem of the first order and growing significance. Two cases, that of globalised capital and that of social media, are analysed to illustrate these points.

This thesis' key ambition is to provide an analysis of sovereignty that explains why legitimate authority is lacking beyond states, and an analysis of the dynamics of power in the international which demonstrate why that is a problem. In terms of the cliché: why states are growing less powerful, and why we should be worried. By the end of Part Two, those goals are hopefully largely achieved; a novel diagnosis of an old problem is offered. Yet, conscious that the value of understanding may be questioned if no alternatives are offered, in the further four chapters of Part Three, I turn my attention to the cure. Since a world state, simply by virtue of ruling over all of humanity, would solve the problems of the displacement and the misplacement of authority, I discuss – and, on independent grounds, refute – world state theories. I survey other alternatives, the Marxian “withering away of the state” and “neo-mediaevalist” or “vertically divided sovereignty” theories, finding that they, too, fail to solve the problem. In the final chapter, therefore, I sketch the contours of a novel solution, movement towards a functional rather than territorial principle of sovereignty. Under the functional sovereignty I modestly propose, authorities are not comprehensive and they are final only in their functional domain, with their jurisdictions extending over populations directly affected by the

phenomena the authorities rule over. Less modestly, perhaps, I wager that such movement in international political theory and international political practice is inevitable, assuming that the desire for legitimate rule is sufficiently broadly shared.

In my closing remarks, I take stock of the successes and failures of this philosophical enterprise. I also include a summary restatement of the arguments of the thesis – which is where readers short on time should turn.

Part One: The Conceptual Structure

“In explaining the concept of sovereignty, I confess that I must enter into — and this is remarkable, dealing as it does with so important and common a concept — a field which is thorny and little-cultivated. The reason for this is that, because of a deplorable mania, those who undertake to write [on sovereignty] have eyes only for what is ancient, of which vestiges scarcely survive, while they are not interested in more modern things.”

(Leibniz 1988:113)

I. Introduction: sovereignty as a theoretical problem

Theorists of international politics have a problem with sovereignty. The concept is deeply entrenched in the ways in which we talk and think about global politics; it is indubitably the field's master concept. But the concept is somewhat confused and confusing, and it is porous, controversial, and ultimately little understood. Like all concepts, it enables understanding, but also sets limits to it. Like all concepts, it is inextricably tied to the historical context, the contingent circumstances of its birth and life — in this case, modernity — such that some of them are inscribed into the meaning of the concept's very meaning. It is within those contingent circumstances that the concept's power is at its zenith. Since our thinking is inscribed into the concepts we use to describe and understand our world, once changes beset those circumstances, our understanding of our world is limited by the decreased utility of the concept itself.

It is easy to argue that this is what has happened with the concept of sovereignty — that it feels like a product of an age of which, to quote Leibniz, perhaps somewhat ironically, “vestiges scarcely survive” (1988), because the quintessentially modern international political architecture that determined its content and enabled its function is changing. Arguably, current global conditions sit so uneasily with sovereignty that the concept now in fact hinders our understanding of the world. This could be an argument for disposing of the concept. That would be a terrible idea. Sovereignty has no normative value in itself, of course. But its loss, I will argue, would mean the loss of legitimate authority, which does. Simply eliminating sovereignty from the equation therefore risks morally disastrous consequences.

Achieving conceptual clarity through understanding the meaning of sovereignty, and its relationship with authority on the one hand, and territoriality on the other, is the key aim of Part One, and an essential building block of the argument this thesis will make. The next chapter will thus begin with a discussion of the concept of sovereignty. While harbouring no ambitions to provide a proper conceptual history, it will survey the conditions within which the concept of sovereignty emerged, and the function it was intended to serve. The chapter will critically analyse and synthesise the literature on sovereignty, paying regard also to the biases and ulterior motives of those who deployed the concept. My assumption throughout this work is that, while, over time, the concept of sovereignty has no doubt taken on various meanings in the realms of politics and law, and has in recent decades been much contested, it is possible to isolate certain constants, making up the concept's "hard core", essential meaning. That hard core, I will argue, consists of a core function, the demarcation of the jurisdiction of the authority, and a core meaning: final authority within the jurisdiction. I also identify a contingent link between sovereignty and a co-original concept, territory; since sovereignty establishes an authority's jurisdiction according to territory, sovereign authorities are comprehensive, ruling over all matters. In Chapter III, I argue that, in contrast to the sovereignty-territoriality relationship, the relationship between sovereignty and legitimate authority – for the purposes of this thesis, an instance wielding the right to rule – is conceptually necessary. Sovereignty alone determines the authority's jurisdiction, the identity of its subjects, and no conceptualisation, let alone justification, of authority is possible without reference to those.

II. The essence of the concept of sovereignty

The history of the concept of sovereignty goes back to the early modern era. In this chapter, I set out to trace its beginnings. I wish not to assume the role of the historiographer, but approach the subject analytically, looking to set the essence apart from the circumstance. This is important: whether the normative problem of this thesis is solvable depends on (1) the nature of the relationship between sovereignty and authority, and (2) whether territoriality is intrinsic to sovereignty.

A distinction can be made between two basic kinds of conceptual history. “Thick” conceptual histories take context seriously, looking closely at a concept’s use at a particular time, in a particular place; arguably, their focus is the history, rather than the concept. The opposite is true of “thin” conceptual histories — “outlines of conceptual histories,” to borrow Onuf’s formulation (1991) — which are primarily interested in the concept itself, rather than the people and the times. F.H. Hinsley’s *Sovereignty* (1986) is a fine example of a thick conceptual history of sovereignty. The work looks closely at the uses of the concept of sovereignty throughout early modernity and emphasises its close connection with modernity’s emergence — a story where the essence we seek can surely be found, but a long and complex one. However, Hinsley’s attempt to do the story justice and follow each of its major threads from emergence to conclusion, loses sight of the essence.

What I intend to present in this chapter, by contrast, is a very thin, though historically-informed, analysis of the concept of sovereignty. It is strongly focused on the only true turning point, the only ‘critical juncture’ where a significant meaning shift occurred in the long, multi-layered story: the concept’s emergence. In considering its relationship with modernity, the chapter focuses on a key aspect

of that relationship, that to which I assign the most explanatory power: modernity's conflicting thrusts towards universalism and particularism. I claim that inasmuch as the matter of political authority is concerned, that conflict was modernity's defining characteristic — and the concept of sovereignty, its key vehicle for settling it. Sovereignty, I will argue, is modernity's key “boundary concept”, not in the traditional sense of the term, but as one defining political boundaries. Through a review of early writers on sovereignty, I show that the concept was always deployed in an effort to write and re-write those boundaries – and that boundary-setting is therefore part of its essence.

(i) *Universalism and particularism*

Since I have no intention to trespass on the terrain of historians, I will draw up only in broad strokes the historical context within which the concept of sovereignty emerged. Polemics about the value of the periodisation of history into antiquity, the middle ages, and modernity — with roots in the Renaissance — or the Petrarchian interpretation of modernity as a kind of awakening after a long reign of the ‘dark’ ages (Pippin 1999:19) are well beyond the remit of this thesis. Let it suffice, therefore, that somewhere between the sixteenth and the nineteenth century emerged the complex of phenomena called modernity. It was characterised by a fundamental human-centredness, the separation of the temporal and the ecclesiastical, an emerging concern for the human being as both the subject of reason and the object of moral concern, an understanding of the world as comprehensible through reason and experience, and an overarching faith in the possibility of progress.

That is set against the background of the mediaeval condition. Overarching ecclesiastical authority, fragmentary and overlapping temporal authorities in virtually continuous conflict with each other; a community of believers incorporating smaller communities within itself — that was the political outlook of mediaeval Christendom. The Christian universalism of the political world of the Middle Ages fascinated Romantics. The German poet Novalis wrote (1799):

“Ein großes gemeinschaftliches Interesse verband die entlegensten Provinzen dieses weiten geistlichen Reichs. – Ohne große weltliche Besitzthümer lenkte und vereinigte Ein Oberhaupt, die großen politischen Kräfte. – Eine zahlreiche Zunft zu der jedermann den Zutritt hatte, stand unmittelbar unter demselben und vollführte seine Winke und strebte mit Eifer seine wohlthätige Macht zu befestigen.”

Novalis and others’ fascination with mediaeval Christian universalism, their ideas about Christendom, I believe, tell us something about modernity itself: that modernity is concerned with universalism not only in a retrospective sense. They hint, at least, that this universalism is an important element of modernity itself, following directly from its concern for the human being, individualist outlook, and belief in progress — characteristics that explain the emergence of liberalism as modernity’s key “idiom” (Onuf 1991:426).

Opposing currents were present, too. One need not go further than Fichte’s (probable) rebuke to Kant, in the form of an unsparing argument for autarky in his *Der geschlossene Handelsstaat* (1800). Novalis was not wrong in stating that the

move away from the overarching — spiritual and to some extent political — authority of the Church through the 130 years of religious bloodshed from the Reformation to the Peace of Westphalia was essentially an exercise in slicing up the spiritual, political, social whole. The migration of ultimate authority — the *final instance*, authority to adjudicate over cases where there is a conflict of authority — from the papacy to temporal authorities required clear definition of both physical boundaries between those authorities and their respective jurisdictions — the groups of subjects whom the directives of political authorities would bind. There was, in other words, a thrust towards particularism in modernity. The conflict between that particularism and the concurrent universalism was the theatre defining the European political architecture which emerged from modernity's historical, cultural, ideological mixture, with sovereignty playing a key role.

To recapitulate: the conflict between universalism and particularism took two main manifestations defined by insufficient clarity, both of which threatened conflict: the hierarchy of separate authorities, and the authorities' physical locus and remit. Settling the conflict meant resolving both questions. Sovereignty was the concept that would do this, establishing the authorities' jurisdictional boundaries.

(ii) Sovereignty and the hierarchy of authorities

Let us take the matter of the hierarchy of authorities first. The doctrine of the primacy of worldly authorities is inscribed into the concept of sovereignty. This doctrine has its roots in the Renaissance. Machiavelli's prince rules with absolute authority, circumscribed neither by the Pope, nor even God — his prince can, and in some cases should, act against what Christians hold to be the wishes of God. The

primacy of worldly rule is also part of the intellectual heritage of the Reformation — the revolt against the Church was, after all, partly the result of indignation at its entanglement in worldly matters. Luther’s doctrine of the “two kingdoms” emphasised the autonomy of worldly from spiritual life and, correspondingly, of temporal from ecclesiastical authority. The claim that sovereignty is rooted in that autonomy is uncontroversial (Nygren 2002, Philpott 2016).

So far, sovereignty has told us that worldly authority enjoys primacy over spiritual authority, but has not determined a prime worldly ruler. Writing in 1576, Jean Bodin, the concept’s first proponent, was primarily concerned with establishing order in a France torn by bloody wars between feudal lords on the one hand and between Huguenots and Catholics on the other. The fragmented and overlapping authorities of mediaeval Christendom, Bodin thought, was a permissive, if not the effective, cause of the mayhem (1992). Order could be achieved only through these communities’ integration into a single, unitary body politic (Philpott 2016). The picture looked similar to Hobbes, writing in the midst of the English Civil War. Hobbes believed order and peace could be established only through strong rule over an integrated community which collectively submits to the sovereign. That would be the salvation from Leviathan, in which — unimpeded by such superior force — people would fight a bloody war against one another for survival.

Both Bodin and Hobbes tell us that sovereignty vests authority in a single instance. Both (as well as, later, Schmitt) considered that instance to be above the law (though not of divine provenance, given that worldly authority is autonomous from the Church). It is not inconsistent with the Bodinian-Hobbesian framework to imagine a sovereign authority exercised by a body rather than, as is commonly assumed, a

single individual. Importantly, sovereign authority is, for Bodin and Hobbes, absolute: in contrast to Machiavelli, not in the sense of possessing unlimited power (a matter to which I return below), but in the sense of being a *binary quality*, “not being relative, [...] an attribute being either present or absent, with no intermediate possibilities” (James 1999:463).

There is a sense in which sovereign authority is a miniature replica of the universalism-particularism dilemma of modernity. For Bodin and Hobbes, it pointed in the direction of large, centralised states. But for Leibniz, for example, it had the promise of elevating — and equalising — many smaller entities. In his *Caesarinus Fürstenerius*, he deployed the concept to claim the right to wage war (thought by some to be the sole discretion of the Holy Roman Emperor) for the German princes (1988) – elevating the authority of the *Fürsten*, at the emperor’s expense, to afford them full participation rights in international negotiations. This is in line with the principle of *rex in regno suo est imperator regni sui* (that is, the standing of the territorial king in their kingdom is identical to that of the emperor), which emerged in France and the Holy Roman Empire in the early 16th century, espoused by rulers educated in Roman law and seeking a justification of their sovereignty. It is a challenge to both the modern and the pre-modern order: it asserts a temporal sovereignty, and thus represents a departure from Christendom, but it is also at odds with the Holy Roman Empire and the Peace of Westphalia, where the kings were granted jurisdiction over their territories – *Landeshoheiten* – but not sovereignty (Erdő 2013, Garrison 1995, Ruggie 1993). Implicit in Leibniz is a rebuttal of the Bodinian-Hobbesian view that sovereignty is a binary quality. For him, instances may be more or less sovereign: sovereignty is a *scalar* quality.

Interestingly, while clearly departing from the orders of both the Empire and the Church, Leibniz does not take the autonomy of worldly from spiritual authority very seriously. Like later Romantics, he displayed a great deal of sympathy for mediaeval Christendom, and in fact tried to reconcile the territorial sovereignty of princes with their allegiance to the Church. (His point in doing so is unclear since, as a result of the Peace of Augsburg, the German princes he dedicated *Caesarinus Fürstenerius* to belonged to different churches.)

What, then, does sovereignty do? Hinsley defines it as the “final and absolute authority in the political community” (Hinsley 1986:1). He is correct, in that the sovereign’s claim to final authority is largely what emerges from the tradition (though absoluteness was never properly part of the term’s meaning, as explained later in this chapter). But, concentrating on the concept’s content (or meaning), Hinsley misses its function, and assumes that the “political community” – the group of subjects over whom the sovereign bears final authority – exists before and independently of the sovereign. What the concept of sovereignty fundamentally *does* is determine who rules over whom, that is, *establish* the final authority, the *ultimate arbiter* in cases where there is conflict regarding jurisdiction. It differentiates the ruler from the ruled; tells us who has supreme authority and who is its subject. That function is universally necessary: if order is to be attained, only one rule can ultimately apply to any individual in a given area. A supreme authority must have the final say in controversial cases: an ultimate arbiter must exist.

Hinsley’s ‘political community’ refers to the group of the authority’s subjects, but not to the term’s associated meanings, such as shared understandings, values and institutions (see f.i. Kukathas 2003). Understood in this way, ‘political community’

is conceptually tied to sovereignty: sovereignty delineates its boundaries, the jurisdiction within which the sovereign authority's directives have binding force. The tradition attests to that truth: one goal of Bodin and Hobbes in deploying the concept of sovereignty was to establish a single, integrated group of subjects out of many fragmented ones, and Austin famously defined sovereignty as follows:

“If a determinate human superior, not in a habit of obedience to a like superior, receive habitual obedience from the bulk of a given society, that determinate superior is sovereign in that society, and the society (including the superior) *is a society political* and independent.” (1880:82, emphasis mine).

In Austin, then, the group of subjects (‘political society’) is defined by its subjection to a sovereign superior. While in the contemporary context we may believe that for a political community to be in place, other conditions must also hold, we must accept that sovereignty conceptually precedes the bare fact of a person being subject to one authority and not any other — and that therefore the reverse, sustained by those who accept Hinsley’s standard definition of sovereignty, which assumes the *a priori* existence of the group of subjects, is false.

Furthermore, if the essential content of sovereignty is establishment of the final authority within the jurisdiction, and the concept’s function is to resolve the ultimate arbiter problem by delineating the jurisdiction, then it follows that sovereignty cannot be a scalar quality. Sovereign authority, precisely because of its status of ultimate arbiter, cannot exist to a greater or lesser degree. If it could, “less sovereign” instances would wield “less final” authority within a “less-defined”

jurisdiction, solving the problem of the ultimate arbiter “to a lesser extent”, i.e. not at all. Instances can be sovereign or not sovereign – sovereignty (in the required sense of *final authority* within the jurisdiction) is a binary quality. (There is a – theoretically less interesting – sense in which it is a scalar quality. It is possible to compare the expanse of jurisdictions of authorities that are sovereign in the required sense, that is, that are *final* authorities within their jurisdiction. It could in this sense be argued that Brazil is more sovereign than Brunei, since its [territorial] jurisdiction is larger. But it is only possible to ask this question once we have established that the given authorities are sovereign in the sense of being final authorities within their jurisdiction. It is that first question that is directly relevant to the aims of this thesis.)

(iii) Sovereignty and jurisdiction

We have recognised that sovereignty affirms the primacy of temporal over ecclesiastical authority, vesting final authority in a single instance (an individual or a body), differentiating the ruler from the ruled, thus establishing the boundaries of the group of the authority’s subjects, that is, the authority’s jurisdiction. We have established that it is a binary quality; one that an authority either possesses or does not. We also know from our brief historical sortie that clear boundaries between the remits of authorities were required during Europe’s transition into modernity, which rendered the uncertainty, overlapping authorities, and porous boundaries of Christendom untenable. But we do not yet know *how* sovereignty fulfilled that task, how and where the boundaries were drawn. That is my second matter of concern,

the principle according to which sovereignty sets authorities' jurisdictional boundaries, which I now turn to.

Philpott underlines that it is deeply taken for granted that sovereignty — and the jurisdiction it delineates — is tied to territory. Indeed, Weber's classical definition of the state, repeated to the point of being trite, takes that link for granted, using the term *Gebiet*, which denotes both geographical area and legal jurisdiction: “Staat ist diejenige menschliche Gemeinschaft, welche innerhalb eines bestimmten Gebietes – dies: *das “Gebiet”, gehört zum Merkmal* – das Monopol legitimer physischer Gewaltsamkeit für sich (mit Erfolg) beansprucht.” (Weber 1926:8, emphasis mine) Another deeply suggestive example is that of British sociologist Michael Mann, who writes that “the state is a place,” in contrast to churches and companies, for example; other instances of power and authority are of a different kind because they are not a ‘place.’ (1985:198) By this reading, the authority of the territorial, sovereign state *is* political authority. Non-territorial, non-territorially sovereign instances may have authority, but not of the political kind.

Whence, then, that knot between sovereignty and territoriality? While certainly widely taken for granted, it is far from obvious. There is nothing in the concept of sovereignty itself that would suggest that it is conceptually linked to territoriality. Indeed, we have seen that sovereignty's content is final authority, and its function is delineating the authority's jurisdiction, by which we understand the group of an authority's subjects, persons bound by the authority's directives. It is not the case, however, that that group must *conceptually* coincide with a group inhabiting a certain territory. We may well imagine a group, spread out over the globe, bound, by virtue of its characteristics, by the directives of the same sovereign authority. In

premodern times, groups of people bound by the directives of a ruler — paradigmatically, those of mediaeval Christendom — were not strictly territorial, but based on religion, feudal links, and a myriad of other loyalties. The claim to territory, like the claim to sovereignty, emerged in modernity as a result of the move from many authorities to a single one, and from fragmented to unitary political communities.

The earliest clear manifestation of the knot between sovereignty and territory goes back to — before Bodin’s *Six Books* — the principle of *cuius regio, eius religio*, articulated at the Peace of Augsburg in 1555, ending religious struggles within the Holy Roman Empire by giving constituent princes the right to choose between Catholicism and Lutheranism (though not Calvinism). Whoever controls the land, sets (beyond the religion) the law, the principle suggests, meaning that the boundaries of the land *are* the boundaries of the sovereign authority’s jurisdiction. This principle, along with *rex in regno suo est imperator regni sui*, laid the ground for the Peace of Westphalia of 1648, discussed in detail later in this chapter. The consolidation of public authority and its vesting in a single holder — with the articulation of the concept of sovereignty — coincided with the territorialisation of authority. And between the emergence of sovereignty and the territorialisation of authority there is an intuitive link.

In the philosophy of language, *natural kinds* are those kinds of objects, in Saul Kripke’s essentialist conception, which have some properties common to all objects within them. “For each kind *K* there is some property Φ of the kind such that it is essential to *K* that $\Phi(K)$ ” (Bird and Tobin 2018). The relationship between *K* and Φ — borne by all objects within *K* — is natural. The classic example is water: all

water in all possible worlds is H_2O , whether we are aware of that chemical microstructure or not. In a possible world where a substance with every quality of water but a different chemical constitution existed, that substance would not be water, precisely because its molecules are different from those of water; that a substance possess the chemical structure H_2O is a necessary condition for that substance to be water (Putnam quoted in Bird and Tobin 2018). In much the same way, light is a stream of photons, lightning is an electrical discharge, and gold is the element with atomic number 79 (rather than of yellow colour, as Kant believed; if in a possible world gold was blue, that would not stop it from being gold) (Kripke quoted in Bird and Tobin 2018).

What is that essential defining property of sovereignty? What is the equivalent of the atomic number 79 for sovereignty? To answer that question, we need to dispose of the intuition which long-term stability chemical structures and natural phenomena elicit. In the political world, sovereign authority is a kind comprising political authorities which are final and extend over a certain jurisdiction of people. There is no possible world where an authority that possesses every quality of sovereign authority (say, territoriality) but that is not final political authority is sovereign authority. But if, in a possible world, the jurisdiction a final political authority extended over was not territorial, it would still be sovereign. It follows that territoriality is not a conceptually necessary condition for an authority to be sovereign, even if, as an empirical matter, all entities which are sovereign authorities were territorial; the latter point can be explained by contingent links.

We know the link is not conceptual; we can, without significant difficulty, imagine non-territorial sovereign authorities. Yet, as an empirical matter, we know of hardly

any, nor are we likely to think of sovereign authorities as anything but territorial. The link is *necessary*, but not because language demands it, not because sovereignty by definition or conceptually *is* territorial. I hold that, as in the case of authority, the link is historical; but, as opposed to the case of authority, it is not conceptual: *the two concepts, sovereignty and territoriality, are contingently linked*. The classical Western conception of space is built on three key characteristics: extensibility, calculability, three-dimensionality, and groundedness on geometric point. (Elden 2005) This modern concept of territory emerged at the same historical juncture as sovereignty: once again, it is a product of modernity and the shift from ecclesiastical to worldly authorities. (Ibid.) Figuratively, the dots did not need connecting, they were connected from the outset. Territory as a political concept emerged in tandem with sovereign authority, and as a contingent part thereof.

There can be only one dominant principle according to which sovereignty defines jurisdiction. We can imagine a domain of social life, for instance the virtual economy, in which a global authority is sovereign. But then that authority's sovereignty is domain-specific – functional, as I will call it later in this thesis. It follows that all other authorities, for instance states which coexist with that global authority, are not sovereign in the domain of the virtual economy, since there can be only one final authority, one ultimate arbiter, within one jurisdiction. Then their sovereignty only extends to the remaining domains: it is also functional. If, however, the dominant principle according to which sovereignty defines jurisdictions is the principle of territory, sovereign authorities must rule comprehensively over all matters within their jurisdiction. Simply put, if territoriality is the dominant or, typically, sole, principle defining authorities'

jurisdiction, all domains of social life within a territorial jurisdiction, without exception, fall under the jurisdiction's sovereign authority. It is, of course, possible to imagine an authority ruling over a non-territorial jurisdiction in a comprehensive manner: upon his appointment as 'caliph,' Islamic State leader Abu Bakr Al-Baghdadi claimed comprehensive sovereign authority, under the *fiqh*, over all Muslims. But it is not possible to imagine a territorially sovereign authority that is non-comprehensive: if sovereignty establishes *final* authority, precluding the existence of other, equal authorities within the same jurisdiction *per definitionem*, a single sovereign authority must rule over all matters in a territorially defined jurisdiction.

To sum up: territoriality is contingently linked to sovereignty, not conceptually. As long as the territorial conception of sovereignty – the linkage between the territorial principle and sovereignty – remains salient, sovereign authorities are territorial, and therefore comprehensive. That seems to be consistent with the intuitive link between sovereignty and territory. It does not follow, however, that this must remain so. Indeed, I will argue that as the political world changes, and territoriality loses its relevance, a different principle must emerge, a different conception of sovereignty must take hold.

(iv) *Sovereign equality*

Sovereignty, we have recognised, is final authority, and it *establishes* the authority's jurisdiction. In our world, there are multiple sovereign authorities, delimited on a territorial basis. In their relationship with one another, they are *equal* and *free from intervention*. The principle of sovereign equality, as I call it, is a key

principle of the modern state system, which emerged directly from the rise of territorially sovereign authorities. Indeed, the modern state system is widely considered to have been “born” at the 1648 Peace of Westphalia, which followed the Thirty Years’ War and affirmed the principle that all states are *equally* sovereign (as well as, this time, giving the constituent princes of the Holy Roman Empire the right to choose Calvinism). It is my contention that sovereign equality is a conceptual consequence of sovereignty as I have defined it. It is therefore neither separate nor separable from it.

The “Westphalian moment,” which has achieved something of a cultic status in international theory, was remarkable not for any innovation, but for codifying already existing conceptual and political realities into legal text. Despite widespread such assumptions, Westphalia was not itself the cradle of the modern state; as an empirical matter, many entities exhibited several key characteristics of statehood long before 1648 (Osiander 1991, 2001) and, as we have seen, the conceptual pillars on which the state stood had also been in place since the 16th century. Neither was Westphalia the moment at which the principle of non-intervention was inscribed into the concept of sovereignty, as some influential writers believe (Krasner 1999). If sovereignty establishes final authority over a jurisdiction – as we have seen, necessarily a binary quality – it appears plain that it is antithetical to the existence of any political authority outside or above that jurisdiction. If that were not so, if authority were exercised above or parallel to the sovereign authority within the same jurisdiction, the authority would lose its sovereign — final — status. In other words, the principle of non-intervention follows directly from the definition of sovereignty I have synthesised from the

tradition. Westphalia, then, was not a foundational moment in conceptual terms, though it may have been one in legal terms.

Yet the idea that the principle of non-intervention is somehow distinct from sovereignty has a great deal of purchase in international theory today – and consequences of fundamental significance for both political theory and political practice. Hinsley and many others distinguish between “internal” and “external” (Jackson 1990) or “domestic” and “Westphalian” (Krasner 1999) sovereignty – a distinction that goes back at least to Hegel (2001:257-258). In that popular conceptual framework, internal, or domestic, sovereignty means the authority to rule within the state, while external, or Westphalian, sovereignty means non-intervention: a state’s autonomy from interference by other states or supranational actors. It follows from the framework that the ‘two kinds of sovereignty’ can have different histories, past and future. Plainly: external sovereignty or non-intervention can be given up, while internal sovereignty or final authority within the state is retained.

Yet if we recognise that non-intervention — or more broadly, sovereign equality — follows from the understanding of sovereignty as final authority, we are driven to think that the right to freedom from external intervention and final authority are not two interpretations, but two aspects, of the same concept of sovereignty, much less two distinct concepts of sovereignty. These two aspects are not only compatible, but mutually conditional. Final authority is not final if it is not free from external intervention. (Philip Pettit [2016] articulates this same point when he argues for the enduring relevance of sovereignty as non-intervention, on the grounds that states can only guarantee their citizens’ freedom from domination as

long as they themselves are free from domination.) External intervention challenges not only the content of sovereignty, but also its function. The imposition of an authority in lieu of the ordinarily sovereign, final authority re-opens the problem of the ultimate arbiter, with potential for conflict between authorities seeking that status within the jurisdiction.

Intervention *ex hypothesi* limits sovereign authority: to have sovereign authority is to be free from intervention. That is consistent with our understanding of sovereignty as *final* authority, and does not in itself imply *absolute* authority per Hinsley's definition. Indeed, absoluteness is not part of the content of the concept of sovereignty. At any rate, Auschwitz put the idea of unfettered, absolute authority, into a new perspective. After 1945, most found that ideal intolerable, and both political theory and practice moved towards some form of 'limited' authority. Yet an affirmative answer to the question of authority's legitimacy has never in modern times automatically rendered authority unlimited. The authority of Hobbes' sovereign, though not accountable, is not unfettered; it is understood that it must serve to protect the natural rights which — combined with sweeping premises about human nature — are the effective cause of 'civil society' and sovereign authority in the first place (Oakeshott 1946:xxii). But it is crucial to distinguish, as Buchanan does, between unlimited authority and unlimited sovereignty, understood as the "lack of a rival for the state's making, application, and enforcement of law within an assumed jurisdiction (typically understood as a territory)" (2007:236). Being unlimited by outside actors is a conceptually necessary condition of sovereign authority. There is nothing in the concept, however, that would preclude "limiting" authority from the inside, that is, dividing it between several actors. Exercising

sovereign authority in some divided way is possible, but limiting sovereignty from without is a contradiction in terms, if our reasoning stands. If sovereignty establishes final authority within the jurisdiction, then whoever limits it in fact exercises it – yet independently to the way in which sovereignty is exercised. For instance, branches of government may exercise sovereignty jointly in a liberal democratic state (Austin 1880, Hart 1994), and local or devolved administrations may exercise sovereignty jointly with the central government in a federal arrangement, thus “limiting” each other’s authority.

(v) *Conclusions*

Our findings so far lend themselves to easy summary. Modernity, with which the concept of sovereignty is heavily entwined, affirmed the primacy of worldly over spiritual authorities. However, the move to worldly authorities exposed modernity’s conflicting thrusts toward universalism and particularism, manifest in questions over jurisdictional and territorial boundaries. Sovereignty settled both matters, resolving the conflict. It vested final authority in a single instance, delineating the authority’s subjects, its jurisdiction. The boundaries it drew were territorial – sovereign authority is contingently linked to the co-original (political) concept of territory – and therefore comprehensive, extending its rule over all matters. The territorial, and therefore the comprehensive, nature of sovereign authority may change as the political world changes, however. Since sovereignty is a binary quality – an authority can either have it or not – the principle that all sovereign authorities are equal and free from outside intervention follows from the concept of

sovereignty itself. Sovereignty thus may not be limited from outside, but may be shared inside, the jurisdiction.

Crudely put, territorial sovereignty commands the universality of form and the particularity of content. Universal is the primacy of temporal authority and the vesting of final authority in a single instance within the jurisdiction. Particular is the jurisdiction itself which, as things stand, is territorial. While territorial jurisdictions, unlimited sovereigns, and the subordination of groups of subjects to sovereign authorities reign universally, the form of government (who exercises sovereign authority and how) and, correspondingly, the rights of subjects, human and civil, are particular to the authority in question. That is how sovereignty resolves the effective cause of its emergence, the conflict between modernity's universalist and particularist thrusts: it integrates both into the system it creates.

To complete the conceptual clarity needed for our analysis of how changes in the political world challenge our conception of sovereignty, I will now use this chapter's findings to analyse the relationship between sovereignty and authority.

III. Sovereignty as a Condition of Legitimate Authority

In the spirit of the broadly ‘political realist’ approach this thesis employs, when assessing questions of legitimacy, I am concerned with norms as well as facticity. ‘Normative’ and ‘sociological’ legitimacy are intimately connected, but essentially separate. As Raz shows (1986:66; 108-109), sociological legitimacy — the empirical fact that people accept an authority as legitimate — is not, in fact, a stand-alone, pure, ‘hard’ fact. It is substantiated by a normative belief that the principle underlying that authority is morally right. “Trust in the authority is trust that the authority is likely to discharge its duties properly. It therefore presupposes a principle which should govern its activities,” Raz writes (1986:66). Normative agreement about that principle does not confer normative legitimacy on the authority it underpins, however. Normative legitimacy is understood from a moral objectivist standpoint; it reflects the objective moral truth. The sociological fact of agreement about the moral rightness of a certain principle does not suggest that the principle is, in fact, morally right. Suppose the principle S, which the people P believe to be morally right, applies to the entity T, and therefore P accept T as wielding legitimate authority. T’s claim to rule, and P’s belief in the principle S presupposes the principle’s objective correctness. But both T and P may be wrong: it does not, in fact, follow that S is correct or that T is normatively legitimate. Sociological legitimacy is underpinned by a shared moral conviction, and yet remains merely sociological.

Normative legitimacy – the questions of whether, and how, rule by an institution can be considered legitimate – is in fact the paramount concern of political theory, as it renders morally acceptable actions which would normally be considered

unacceptable, such as ruling, meaning creating laws and applying coercion in their implementation. Normative legitimacy is arguably what distinguishes authority from mere power. The thief who points a gun at me and commands me to hand over my money exercises power over me, but this is by no means acceptable (though I may, of course, submit to it). The state which commands me to give up a percentage of my earnings or face prison, may exercise authority, not just power, in doing so, and this may be acceptable. Two types of question about normative legitimacy can be distinguished. The first type of question asks ‘by what right’ a ruler rules, that is, how can we justify the ruler’s authority, its right to issue binding directives, *per se*. The second type of question asks how we can justify the ruler’s authority, by reference to the relationships among subjects that the authority creates.

Sociological legitimacy is just as important. There is no authority without power, understood here as the capacity to rule over others or, in Weber’s formulation, “the chance of obtaining the obedience of others to a particular command” (quoted in Aron 1964:101). Power is an empirical condition of political authority; an authority that is legitimate but incapable of ruling is meaningless. For the purposes of this thesis, authority can be said to be constituted by power and the right to rule (Ladenson 1980:139), although this is not a consensus view. Empirically, people principally obey an authority when they believe it to be legitimate, and – although other reasons of course exist – sociological legitimacy is therefore a necessary component of power and thus authority. Sovereignty does not presuppose either normative or sociological legitimacy, but instances which are sovereign but not sociologically legitimate are weak. Entities may in principle be sovereign but not normatively legitimate, although the reverse, as we will see, is not true.

In this chapter, I will focus on the conditions of legitimate authority and whether these allow for a conception of legitimate authority appropriate for non-sovereign instances. I find that legitimacy is conceptually conditioned by sovereignty; that the legitimacy of (political) authority, like authority itself, depends on knowledge of the group of subjects, and therefore on sovereignty.

(i) Conceptualising authority

Authority is most often conceptualised, in Hohfeldian terms (1919), as a claim-right, meaning that it has a correlative duty of compliance (f.i. Wolff 1970, Waldron 1993, Rawls 1999, Buchanan and Keohane 2006). Sometimes, it is conceptualised as a ‘justification-right,’ one which depends on posterior justification of the moral transgression, of coercion, that is (f.i. Ladenson 1980). (Other routes are also available.) Whichever route we take, the ultimate (moral) right-holders are the citizens, the subjects of the authority – although the derivative (instrumental) right remains, of course, with the ruler. Under the claim-right conception, the right to rule must be grounded in the interests of the right-holders (Reglitz 2015). Under the justification-right conception, the moral transgression must be justified to the right-holders. As such, the identity of the right-holders, that is, the subjects, must be known for the right of authority to be claimed or justified; the group must be delineated according to some principle. In other words, both conceptions of authority presuppose a jurisdiction.

As we established in Chapter II, it is the concept of sovereignty that delineates the group of an authority’s subjects, that is, establishes its jurisdiction. Given its contingent link with territoriality, it does so according to the territorial principle,

where the boundaries of the jurisdiction are territorial, and the final authority within that territory rules comprehensively over all areas. Non-sovereign entities cannot wield legitimate authority under the claim-right, the justification-right, or likely any conception of authority.

(ii) Justifying authority

When it comes to justifying authority, the problem for non-sovereign instances is complicated further. Whether seeking to justify authority per se, or the relations the authority creates among its subjects, justification requires that the identity of the authority's subjects be known.

Let us consider theories justifying authority per se first. Take for example consent theory, where (in Hobbes' highly individualistic formulation [see Oakeshott 1946:lx, n.1.], but also in Locke, Rousseau and Kant) each individual has to consent to the authority for it to be legitimate; individuals relinquish their own 'sovereignty' (freedom, autonomy) to the state. Clearly, for an authority to be justified through the consent of its subjects, it must be known who those subjects are. Or take the instrumental necessity of political authority. Under Joseph Raz' 'service conception', institutions' "role and primary normal function is to serve the governed" (Raz 1986:56), and they serve them if they are more likely to comply with reasons that apply to them if they accept the authority's directives as authoritatively binding (Ibid:53). In other words, authority exists if it is instrumentally justified from the perspective of those subject to the authority: once again, the subjects' identity needs to be known. Now consider the justification based on the idea that we have special ties with our own country because we are

insiders with regard to range-limited principles it enacts (Waldron 1993). Once again, the theory pre-supposes the existence of a bounded group of subjects, or insiders. Or take Williams' claim that, in the condition of modernity, liberal rights constitute the 'basic legitimation demand' of an authority (2005:8-9). Again, those rights are held by the subjects. And so on: to justify authority, the authority's subjects – who suffer the moral transgression of coercion – need to be identified.

Now let us consider theories of democratic legitimacy, which add a constraint to legitimate authority regarding the nexus the authority creates among its subjects. A requirement of political equality arguably follows from people's equal moral status. An order allowing for political equality, at the most basic, allows citizens an equal say in the laws that bind them: it is some kind of democratic order. Democracy is therefore in contemporary political thought almost universally seen as a necessary component of legitimacy (see f.i. Habermas 1996:39, Buchanan 2002, Cohen and Sabel 2005, List and Koenig-Archibugi 2010). Various explanations exist for this; for instance, Christiano (2004) argues democracies (or democratically made decisions) are intrinsically just in that they publicly realise the equal advancement of citizens' interests, while Williams (2005:6) focuses on the harms that result from the lack of democratic procedures. Independently of those, the democracy condition, as a contingent phenomenon, is relevant to our concern. It is relevant because democracy is another demanding condition as non-sovereign instances are concerned. An essential condition of democratic decision-making is a political community (and the quality of a democracy arguably partly depends on the political community's strength [List and Koenig-Archibugi 2010]), capable of achieving a "consensus recognizing a common domain as the proper subject of [...] collective

decision-making”, and within which citizens could be “habitually communicating with one another about public issues” (Buchanan and Keohane 2006:416), but most fundamentally, consisting of the authority’s subjects. A democratic justification for authority, then, also depends on a pre-existing clearly delineated group of subjects.

Sovereignty realises this delineation; conceptually, sovereignty alone delineates the group of an authority’s subjects. Normative treatments of why we owe a duty of obedience to one authority and not, generally, to others, follow only once sovereignty is in place. *Sovereignty is a conceptual condition of authority.*

(iii) *Conclusions*

This chapter has sought to establish whether legitimate authority is possible beyond sovereign entities. It has found that, as things stand, it is not: legitimate authority is conditioned by sovereignty, as sovereignty alone delineates the group of an authority’s subjects; since any legitimisation attempt must consider the subjects, it requires consciousness of their identity.

The chapter has found that already at the point of conceptualising legitimate authority, the group of subjects needs to be known, therefore the authority must be sovereign. It has also discussed justifying political authority per se and justifying the relations it creates among its subjects. Through both avenues, it has found that justifications rely on knowledge of the subjects’ identity; justification thus requires such knowledge. Sovereignty is therefore a conceptual condition of legitimate authority. Since only states are currently sovereign in the required sense (with the partial exception of the EU, as I will argue later in this thesis), only states bear

legitimate authority. I will revisit the findings of this chapter in Chapter V, building on them to understand the authority of international institutions.

Part Two: Empirical Conditions and their Moral Consequences

“The traditional concept of national sovereignty is the doctrine of a period that has passed.”

(Edward Heath, quoted in Friedman Goldstein 2003:3)

IV. Introduction: a two-pronged challenge to territorial sovereignty

Sovereignty, I have established, is the principle that vests final authority in a single instance and delineates the group of that authority's subjects, determining its jurisdiction. It is also the principle that draws territorial boundaries to jurisdictions – and it is from the territorial nature of jurisdictional boundaries that the authority's comprehensiveness follows. It appears, however, that territorially sovereign authority is under threat.

The challenge to territorial sovereignty is two-pronged. On the one hand, states' power – an empirical condition of authority – has significantly decreased, and continues to decrease, to the benefit of global and regional structures in all key institutional domains: the political, the legal, the economic, and the military. This is necessarily so. Globalisation – defined here as an increase in *the density of the social*: the intensity of information, activity, and interaction flows in the world – means that many of the duties authority exists to serve, prime amongst which is the safeguarding of citizens' individual rights, can no longer be served by states. An increasing number of increasingly salient threats to those rights are not particular to states but larger in scope: think of climate change, terrorism, cross-border crime, and also of tax competition and offshore jurisdictions. Tackling these challenges is very much the duty of sovereign authority: states. Climate change threatens citizens' rights to a habitable Earth; terrorism and cross-border crime, their right to security; tax competition and offshore structures, their right to fair competition and ultimately equal opportunities. One possible answer is interstate cooperation. Policy that follows from negotiation and compromise between states may be legitimate, but is plainly insufficient: competition and conflict is a necessary

consequence of the separateness of states. Another possible answer is the establishment of supra-state authorities, but this runs into the legitimacy (and ultimate arbiter) problem. Policy enacted by instances other than states may be sufficient, but is illegitimate. Sovereignty, as we have seen in Part One, cannot be limited from the outside, and is a condition of legitimate authority. Still, it appears that the challenge of globalisation is not a challenge to territorial sovereignty as such: it does not suggest that territorial jurisdictions are the problem. Rather, globalisation suggests that those jurisdictions are too small. If the territory of states corresponded to all the territories affected by the aforementioned challenges – regional or global – they could fulfil their duties.

A more fundamental challenge to territorial sovereignty is the parallel process of deterritorialisation: the rise of essentially non-territorial processes and (private) powers in the political, economic, and military domains. This is a *necessary* consequence of technological change: the shift from physical to virtual, and from analogue to digital, triggers the emergence of challenges that are relevant from an individual-rights perspective, and thus within authorities' remit, but which are truly universal, due to their non-territorial essence, rather than particular to states. Take the virtual economy, crypto-currencies, and unregulated (“dark web”) online marketplaces. Take digital services, artificial intelligence, satellite networks, and cyber-warfare. Proper regulation of all of these is essential if we wish to ensure individuals' rights to fair competition and ultimately equal opportunities, as well as security. But because these instances of private power are essentially non-territorial, they do not lend themselves to regulation by a territorial authority, and thus undercut public authority. From a conceptual standpoint, either a truly universal

authority encompassing all of humanity – a world state – or an altogether different conception of authority is needed.

The tension between territorial sovereignty on the one hand, and globalisation and deterritorialisation on the other has produced a world increasingly governed – in an illegitimate fashion – and by a messy multitude of actors and processes. When the necessary action is either essentially non-territorial, or beyond the territorial jurisdiction of legitimate political authorities – states – states cannot fulfil their primary duties, ensuring citizens' rights, because they have insufficient *power* to do so. Legitimate authority remains tied to territorially sovereign polities, but not power: power is going regional, global, offshore, and online.

The next chapter will discuss the tension between globalisation and territorial sovereignty, arguing that globalisation produces a mismatch between empirical power and territorial jurisdictions *as they exist*. I then turn my attention to deterritorialisation, arguing that it produces a mismatch between empirical power and territorial communities *as such*. Finally, the chapter discusses the resultant, and increasingly pressing, problem of illegitimate rule through two case studies.

V. Displaced authority: globalisation and territorial sovereignty

Globalisation is a fuzzy concept, as sociological concepts go: essentially, its meaning is vague and its application flexible. (Lakoff 1973) It is the “big idea” of the twentieth century, that has, to a significant extent, turned into the cliché of our times. (Held et al. 1999:483). In this thesis, a holistic approach will be adopted; I will use the term to denote the complex of processes that can most parsimoniously be described as contributing to an *increase in the density of the social*. (Neumann 2015) Globalisation is made possible by technological change and driven by the market. Operating across the entire spectrum of institutional domains and, more broadly, domains of social interaction, these processes increase and deepen global interconnections. They drive up the level at which, and the intensity with which, interactions occur, and thus also drive interconnectedness and, often, interdependence between individuals and social groups globally. It is the “transnational” – that is, “beyond states” – increasingly *global*, flow of everything: people, ideas, capital, violence. Social, cultural, political and economic activity, traditionally occurring within geographically defined political jurisdictions, is stretched across those. (Held et al. 1999)

It has been noted so many times it is almost a truism: globalisation undermines the primacy of the state as the primary building block of political organisation. As David Held put it:

“Its consequences are profound both in practical and intellectual terms, since the modern theory of the liberal democratic state presupposes the idea of a ‘national community of fate’ – a community which rightly governs

itself and determines its own future. This premise is challenged fundamentally by the scope and intensity of global interconnections since it is evident that 'national communities by no means exclusively "programme" the actions, decisions and policies of their governments and the latter by no means simply determine what is right or appropriate for their citizens alone'. The result is that globalization is stimulating a 're-articulation of international political space' in which the notions of sovereignty and democracy are being prised away from their traditional rootedness in the national community and the territorially bounded nation-state.'" (1993:264)

Here, Held zooms in on an oft-forgotten, and essential, aspect of globalisation's challenge to sovereignty: people's belief in it. Globalisation means that "distant events have a deeper impact on our lives" and "even the most local developments may come to have an enormous impact," as noted by Held elsewhere (1999:484) It also means that the significance of events of only local relevance is diminishing. Like all social constructs, sovereignty is only as strong as people's belief in it. Globalisation – or, to be more precise, modern telecommunications technology, widely available internet access, and the market-driven exposure to foreign people, cultures, etc. – eats away at people's buy-in into sovereignty by contrasting with and supplanting notions of 'communities of fate', or with Weber, 'communities of sentiment' (1920:922). Once again: technological progress makes globalisation possible, and the market drives it.

Markets cease to be national, and are integrated into “a single global market economy” (Strange 1996:14). Private power is strengthened, to the detriment of states's public power – the simple *ability* to rule, as opposed to authority, that is, the right to do so. States can no longer fulfil their duties related to the economy: create employment, ensure growth and fair taxation, keep inflation under control, and so forth, because their control over these domains is weakened and weakening. The transnationalisation of manufacturing and the rise of “soft capitalism” drives a loosening of states’ grip over labour regulation (Thrift 1998, Thurow 1996). The scarcity of global investment leads states to compete with one another in tax cuts, rebates, and so on, seeking an advantage. This thought has immense intuitive power: the *market*, a social institution regulated by states, grows on top of them: the market’s private powers – “impersonal forces” (Strange 1996:4) – integrated through private enterprise and not government decisions, acquire more power than the proper, public authorities, the states themselves. “Where states were once the masters of markets, now it is the markets which, on many crucial issues, are the masters over the governments of states,” (Garrett 1998:787) because “a divide is opening between polity and economy” (Richard Sennett quoted in Bauman 1998:55). The tail wags the dog.

Economic globalisation has received much theoretical attention from scholars on the left of the political spectrum, for the obvious reason that it provides answers, however partial, to their experience of injustice in general, alongside an explanation for the rise in global inequality they observe (whether it explains causation or visibility is another matter). Nonetheless, despite the intuitive power of the idea of the market living a life of its own and subverting democratic control, the idea of

“the market” only works well as an umbrella term here. Focus on the structure in this matter is unlikely to yield a fruitful discussion: the market is an open-ended network of transactions with no natural boundaries, and thus at least partially always beyond the reach of state authorities. More fruitful is focus on the agents of that market, corporations and investors, who are not typically beyond state authorities’ control – and yet escape that control through superior power and global mobility. The possibility of operation from elsewhere on the globe, the existence of opportunities to operate in many corners, drives the globalisation of business. And by globalising, business itself fosters interaction: it drives globalisation.

But global integration in the economic realm is only part of the story of globalisation. People, not only businesses, are key agents of globalisation. The ease of global travel, and thus mobility for masses of individuals – workers, tourists, students – is similarly important, allowing for people-to-people contacts of which transaction – economic, political, military – is born, above and beyond territorial political authorities. It drives the erosion of public – state – power, but also tension in the form of reaction from intra-state actors calling for an end to such mobility. The ease of global communication with online technologies drives forward the exchange of ideas, data, and technology, fuelling association, enterprise – alongside the trafficking of people and weapons and narcotics, and the birth and export of all kinds of violence. The rise of international organisations of political, military, and altruistic kinds drives the global diffusion of power, of violence, and of charity.

What results is a dramatic decrease in states’ ability to exercise control over agents that exercise power over their subjects – since such control could only be exercised from a higher level – giving rise to the problem of illegitimate rule. Legitimate

authority is vested in states, but states lack the power to deliver on the tasks for which they were granted that authority. The problem could be solved if authority were vested in a higher instance elsewhere, for instance a regional or continental bloc or, at the limit, a world state encompassing all of the territory inhabited by humanity. But, where it is borne only by territorial states, authority is displaced.

This argument – let us call it the displaced authority argument – can be challenged principally from three angles. One angle is that authority is not (sufficiently) displaced because globalisation will be reversed. The second angle is that the displacement can be, and has in the past been, handled within the framework of territorially sovereign authorities. The third – related – angle is that cooperation between states can spawn instances, international organisations, which bear both the power and the authority to act, and thus evade the problem of illegitimate rule. In the following, I will consider and refute these challenges. Where appropriate (subchapters II. and III.; historicism and the authority of international organisations) I will pay special attention to a programmatic, seminal text in the relevant discourse. Where no such text exists (subchapter I.; deglobalisation) I introduce and problematise the discourse through a smorgasbord of different texts.

(i) The challenge of deglobalisation

The system of territorial political authorities, states, orders the way in which we think about the international, commanding an assumption that states will remain the par excellence forms of political organisation and loci of political authority. Certainly, a ‘status quo bias’ is at work. Scholars in global political theory study rapidly changing contemporary phenomena. On the one hand, state sovereignty

constitutes a point of stability in the midst of this uncertainty. On the other, many theorists are wary of opening themselves up to the charge of idealism or utopianism, preferring, instead, to stick to empirical realities perceived as stable. Beyond this bias, it may be the case that state sovereignty is simply too deeply ingrained in our political thinking: that it is so heavily tied to modernity, that one is bent to assume that only a very radical shift could change it – one to which most scholars are not ready to commit. That status quo bias also, no doubt, partly explains the tendency to assume that although globalisation drives a departure from an international order by states, that departure is but temporary, and the world will, sooner or later, return to the tried and tested system of states.

Deglobalisation as a normative concept

The term ‘deglobalisation’ is sometimes attributed to Filipino sociologist and extreme-left activist Walden Bello, who believes that globalisation was, with the global financial and economic crisis of 2008, discredited as the “transmission belt not of prosperity but of economic crisis and collapse” (2009). Bello sees a contradiction in the fact that “governments paid lip service to global coordination but propelled separate stimulus programmes meant to rev up national markets,” (Ibid.) for which he charges Western governments with hypocrisy. What Bello targets in particular is what he calls ‘neoliberal globalisation’ – essentially, the globalisation of supply chains driven by multinational corporations which he claims increases poverty and inequality both within and between states. It is counter to that ‘neoliberal globalisation’ that he proposes a programme of deglobalisation: a Chavista, radical economic programme of reshoring production – encouraging

production at home instead of outsourcing it overseas – erecting trade barriers, redistributing income and land, and banning multinational corporations and international financial institutions deemed responsible for ‘neoliberal globalisation,’ chiefly the IMF and the World Bank.

Bello’s take on deglobalisation boils down to the observation that states retain a great deal of power. His reasoning is highly normative, of course, and reflects staunch left-wing views. But his empirical observations about the 2008 financial crisis are correct, and many similar observations were made during the COVID-19 crisis. The key message is that when the going gets tough, it is states that can step up to save the day, or what is left of it. Indeed, in certain crises – and the 2008 financial crisis and 2020 pandemic are cases in point – states (and, to some extent, the European Union) are the entities that can respond efficiently, by launching quantitative easing programmes, by injecting liquidity into the economy, or by closing borders and enacting curfews and mask mandates. And indeed, from states’ various responses a cacophony is born, coordination suffers, and certain globalised processes such as travel or trade are disrupted. But there is nothing in this argument that contradicts mine: that globalisation *on the whole* undermines state authority as it is, because an increasing number of instances which states are unable to control on their own exercise an increasing amount of power over citizens.

Deglobalisation as a descriptive concept

In mainstream economics, deglobalisation is used as a descriptive rather than normative term. It is understood to denote the empirical, albeit speculative, claim

that *certain features* of globalisation – supply chains, first and foremost – have been stretched too far and are now on the retreat. It is often claimed that the 2008 crisis marked the zenith of globalisation (in this narrow sense), which has been retreating since, a process sometimes called ‘slowbalisation.’ (*inter alia*, Rogoff 2020, Antras 2020, Garcia-Herrero 2020, Palanivelu 2020, Haass 2020, Irwin 2020) The empirical evidence most often used to support this claim is a slight reduction in the ratio of global exports to global GDP, a figure that had grown steadily between 1945 and 2008 (Irwin 2020, Antras 2020, Garcia-Herrero 2020) – although with plateaus and slight reversals, for instance between 1980 and 1990. While the period under study's short length may suggest that these figures are misleading, circumstances suggest they do reveal something important. There is a good chance that the reduction was at least partly driven by the increase in domestic consumption, and thus the decrease in the exports, of China. US President Donald Trump's isolationist policies, especially the withdrawal from the Trans-Pacific Partnership treaty, the introduction of tariffs and the trade war with China have likely also contributed, not to mention the global consumption slump due to the COVID-19 pandemic in 2020. Some argue that the slowdown is a natural consequence of the unsustainable increase in globalisation in the preceding two decades (f.i. Antras 2020). In addition, technological advances, especially automation in manufacturing and artificial intelligence across economies, means that reliance on human labour, and therefore the level of labour expenditures in manufacturing – the key original driver of the globalisation of supply chains – is on the decrease. Reshoring may, thus, last.

It is, in fact, likely to last. The COVID-19 pandemic highlighted the drawbacks of the interdependence entailed by globalised supply chains. Governments were pushed to recognise the value of self-reliance as alliances proved uncertain – consider the betting game that unfolded between the US and the EU for batches of COVID-19 vaccines, President Trump’s endeavour to compel American vaccine producers to grant priority to the US, or the reported aggressive bargaining by state actors for scarce ventilators and personal protective equipment. The lack of international cooperation in the pandemic response – in the production and procurement of essential supplies, in the coordination of restrictive measures, and in the financing and rollout of vaccines – reinforced that trend. The pandemic thus drove the rise of a discourse of ‘strategic autonomy,’ essentially a programme of reshoring production, in France, the EU, Australia, Japan, and elsewhere.

Reshoring programmes will in all likelihood cover essential supplies. And although the list of essential supplies will also likely be periodically adjusted to cover emergencies not only of the public health kind, wholesale reshoring of manufacturing capacity would be prohibitively costly, and likely unnecessary. So while long-term structural factors, such as isolationist policies in key markets and the rise of automation in manufacturing, depress or reverse the globalisation of supply chains, and while pandemic-induced reshoring programmes compound that trend, the combined effect will constitute but a moderation, not the elimination, of globalised supply chains' challenge to authority.

Some point to indications of deglobalisation trends in spheres beyond just manufacturing supply chains, though these are less clear. Haas (2020) believes that the global flow of people is being moderated or reversed by an anti-immigration

shift in the US and Europe – but this argument stands on weak legs for three reasons. One, immigration restrictions moderate the flow of workers, but not of tourists or business travellers – at least as important as workers as agents of globalisation. Two, the flow of workers has never been completely free in most parts of the world (only such blocs as the European Union and the Eurasian Economic Union permit free international movement of labour) – yet its prevalence is higher now than ever – precisely the factor which provoked the rise of anti-immigration politics. Three, technological change enables social interactions to happen globally without physical dislocation, driving globalisation even if travel opportunities are limited.

More plausibly, it is argued that the internet, once a primary means of globalisation, is undergoing fragmentation (a phenomenon sometimes referred to as ‘splinternet’ [Haas 2020]). The argument goes like this. With the rise of China’s, Russia’s, and other countries’ efforts to ban access to certain digital services, and thus shield their populations from the free flow of ideas and technology, as well as Russia’s efforts to create a self-sustained internet neatly separable from and operable independently from the rest of the online space, the internet becomes no longer free or global, thus ceasing to be a driver of global integration. Nonetheless, there are two closely interrelated problems with this argument. One, it runs into a slippery slope problem in assuming that the ‘splinter’ is headed for completion, whereas the history of internet censorship and ‘Great Firewalls’ is in fact one of partial success at best. Partial in the technical sense since even in its advanced forms, internet censorship is relatively easily bypassed. (Wang et al. 2017) Partial in the political sense because the flow of ideas – obviously a matter of degree – may be slowed, but only

moderately, since the internet, though the most important, is only *one* among the enablers of global social interactions, which include various analogue technologies alongside physical dislocation. Two, to a significant extent, and in most societies, the ‘damage’ has already been done. Exposure to the global and the consequent rise in its importance – and converse decline in the importance of the local, with attendant weakening of buy-in into the idea of local communities of fate arguably impacts societies on a generational basis. There is little to support a hypothesis that the current generation will acquiesce in being forced to relocalise.

(ii) *The challenge from historicists*

Kant famously put ‘trade’ in the ‘cosmopolitan’ realm, and considered it as such a factor militating towards peace. Some build on this argument by claiming that the rise of global trade in the 18th and 19th centuries was but a previous chapter of globalisation. Given that the system of states has not only endured, but significantly strengthened during that period, through the creation and development of institutions to manage globalisation, historicists argue that the same is likely to happen during its current chapter.

The late English sociologist Paul Hirst probably remains the most articulate promoter of the historicist paradigm. Hirst and his followers’ scepticism about the extent and effects of globalisation is underpinned by concern for state-level economic management and, in particular, redistributive strategies. More specifically, as is sometimes evident in the volume *Globalization in question*, Hirst et al. take issue with a ‘political rhetoric’ of globalisation, intertwined with ‘neoliberal,’ free-market capitalism, which they feel *elevates capital above labour*

by asserting that capital is beyond states' regulatory reach and labour has to "adjust its political expectations to meet the new pressures of international competitiveness," (2009:304) meaning dispensing with labour rights and social welfare. That is, Hirst's concern is of a moral nature – for moral objectives that he believes can only be (legitimately or effectively) pursued by the state. His core charge against the globalisation discourse is that it "lacks historical depth" and tends to "portray current changes as unique, without precedent, and firmly set to persist long into the future," (Ibid:27) – ignoring the fact that previous chapters in globalisation were rapidly unbound by the emergence of political conflict between the states on the support of which the process depended. (Ibid:329) Hirst and his co-authors claim, first, that globalisation in the current sense is neither unique nor discontinuous with previous similar processes; that

"it is one of a number of distinct conjunctures or states of the international economy that have existed since an economy based on modern industrial technology began to be generalized from the 1860s. In some respects, the current international economy has only recently become as open and integrated as the regime that prevailed from 1870 to 1914." (Ibid:27)

They claim, second, that globalisation is empirically overstated, because genuinely global businesses are rare; they note, trivially, that "most companies are based nationally" and trade regionally or multinationally, because capital remains concentrated in developed countries, and because most financial flows are concentrated between Europe, East Asia and North America. They conclude that

global economic processes are not beyond state governments' control; that, conversely, the governments of major economies, together or severally, can indeed govern them, and their current failure to do so is merely a product of their divergent interests, and of the pro-market, laissez-faire (here labelled "neoliberal") ideological convictions of their elites.

Hirst et al. do concede that globalisation, old and limited as it is in their view, weakens the state's capacity to act to a degree. For instance, they argue – interestingly, and improbably – that the Cold War “preserved the saliency of the national-level government in a way that delayed or masked the changes that would subsequently weaken it,” (Ibid:304), since the fear of a mobilised and immediate enemy made state military capacities necessary. More importantly, they claim that in a world where power must, to some extent, be exercised by instances both below and above the state, states must act as channels between supranational power agents and the people, and as conferrers of legitimacy upon both supra- and subnational power agents.

“Nation-states should no longer be seen as ‘governing’ powers, able to impose outcomes on all dimensions of policy within a given territory by their own authority, but as loci from which forms of governance can be proposed, legitimated and monitored. Nation-states are now simply one class of power and political agency in a complex system of power from world to local level, but they have a centrality because of their relationship to territory and population.” (Ibid:321)

Whether consciously or not, most authors in the historicist discourse broadly follow the reasoning of Hirst and his co-authors' seminal text. Leicester sociologist James Fulcher, for instance, claims that (1) globalisation began in the fifteenth century and coincided with the rise of the nation state – and empires – for most of its history, and indeed that the development of the state and that of international structures are inseparable from one another and mutually reinforcing, and (2) that the transnationalisation of business is overstated and in any case helps to strengthen the state through lending justification to governments (referring to the need to attract and retain capital) and nation-states *together* continue to set the rules of the game for business. Certain groups of countries, rather than anything truly global, constitute supranational 'societies'; we live in a multi-level society rather than a global one. Finally, he claims (3) that globalisation does more to strengthen than to weaken the state, which remains the conferrer of legitimacy on power agents at other levels, and continues to exert more control over transnational flows than vice versa. (Ibid.) These three claims, or at least one or two of them, present in one form or another in the whole of this literature, define the historicist objection to the displaced authority argument.

The first argument, that globalisation is not a new phenomenon, is trivially true. There is continuity there, and it is true that globalisation is a matter of degree – as evidenced by the elements of retreat provided by COVID-19 discussed earlier in this chapter. As David Held and his co-authors claim, "globalization is not a singular condition, a linear process or a final end-point of social change." (1997:258) Yet two considerations suggest that globalisation in the contemporary sense merits study on its own. One, the difference in degree is so large so as to merit

its own category – as Held argues, the “contemporary system is distinctive in the degree to which globalisation and regionalisation have become inscribed in the dynamics of modernity and modern social life” (Held 1993:283). Two, and more importantly, while the ‘globalisation’ of previous centuries was confined to neatly delineated areas of social connections, primarily trade, contemporary globalisation is comprehensive. As Held notes, it covers all key institutional domains: the political, the legal, the economic, and the military (Ibid.) – the cultural is surely worth adding. It is trivial that globalisation has brought on massive transformation for societies today, but provoked hardly any in its manifestations in previous centuries. (Gray 2009:56)

Taking a broad view of globalisation, consistent with my approach, rather than narrowing it down to simply economic globalisation, goes a long way towards defeating the second argument – simply put, that globalisation is overstated. It may be plausibly argued, with Hirst et al., that truly transnational businesses are few and far between, though their proliferation limits the argument’s plausibility somewhat. It may be plausibly argued that ‘the West’ is significantly more interconnected and interdependent than other regions, although the growth of other regional blocs driven by China and Russia, and the limits to autarky experienced by countries under Western economic sanctions also moderates this argument’s plausibility. But it is difficult to deny the global reach of ideas and culture, experienced in everything from the emergence of liberal democratic norms as the gold standard of legitimacy even in most de facto authoritarian states, to the similarity of images, in advertising as well as entertainment, everywhere around the globe. As already argued, these

work against state power by weakening people's link to the local, by putting the national community's necessity into brackets.

The problem with the third argument – that states' long-term role lies in conferring legitimacy upon instances below and above them which actually exercise power over their subjects– follows directly from my treatment of sovereignty in Part One of this thesis. On the one hand, there is tension between states' territorial jurisdiction and the idea that they are unable to govern “all dimensions of policy” within that territory; as we saw earlier, the comprehensive nature of sovereign authority follows necessarily from the territorial nature of its jurisdiction. The existence of sovereign authority as the final authority necessarily precludes the existence of other authorities within the same jurisdiction. Although sovereign state governments may empower bodies to coordinate within a certain area, nowhere, with the partial exception of the EU, are such bodies sovereign in the required sense; states remain the ultimate arbiters. On the other hand, being unlimited from the outside is conceptually necessary for sovereign authority's finalness, even its key constitutive characteristic. And although Hirst et al. appear to recognise that their argument chafes against the established conception of sovereignty, they do not tackle it head-on, leaving the new conception of sovereignty they appear to espouse undeveloped.

(iii) The challenge from international organisations

The standard answer in international political theory to the problem of displaced authority is the creation of political authorities above states. Let states voluntarily abdicate some of their sovereignty, let them ‘pool’ their sovereignty into a jointly-

established and operated institution with jurisdiction over the functionally-delineated set of matters they are entrusted with. Consider the International Atomic Energy Agency, tasked with regulating the handling of nuclear combustibles – or indeed any other agency within the UN structure, from the World Trade Organisation to UNICEF: there is little disagreement among scholars about these institutions’ instrumental importance. The ‘hard fact’ of problems that can only be addressed through the concerted action of states, or people in different states, and the lack of any obvious supra-state authority – the displaced authority problem – is, from this perspective, really a question of coordination (f.i. Buchanan and Keohane 2006:408). (Cosmopolitans further hold the normative belief that international institutions, potentially serving to reduce inequality between individuals, are necessary for the establishment of global justice. [see f.i. Cabrera 2004; Held 2010; Höffe 2007]) Yet it is typically acknowledged, at least implicitly, that these institutions cannot be made sense of using the concepts developed for a ‘domestic’ setting. ‘By what right’ do they rule, the question arises (Hart quoted in Vincent 1986:17). Scholars in the fields of globalisation studies, democratic theory, international political theory, and cosmopolitan political philosophy have, in response, produced a burgeoning literature on the legitimacy of international institutions.

A gold standard of sorts is Allen Buchanan and Robert Keohane’s (hereinafter B&K; 2006) proposal for a ‘global public standard of legitimacy’ in international institutions. It stands out for two reasons. First, B&K start from the premise that democracy on a global scale is neither possible nor desirable — because there is no global political community, and because the protection of individual and minority

rights would not be feasible on a global scale (2006:416-417). Admittedly, B&K are not alone in this (see f.i. Dahl 1999). They go on to argue, however, that a global public standard of legitimacy is necessary — and accessible through reflection. Second, in articulating this standard, their work closely parallels efforts in analytical political theory to account for legitimate authority and political obligation at the domestic (state) level. Curiously, perhaps, they arrive at much the same principles as one often encounters in political theory proper (Bernstein 2011).

B&K argue that international institutions provide benefits which could not otherwise be obtained, but in order to function effectively, they need to be seen as legitimate. Their standard for assessing the legitimacy of international institutions stands on three legs. To be considered legitimate, international institutions should:

1. enjoy the ongoing consent of democratic states,
2. fulfil the criteria of minimal moral acceptability (basic human rights), comparative benefit (instrumental value), and institutional integrity (congruence between stated goals and actions), and
3. be complemented by epistemic conditions needed to judge whether the criteria are satisfied, and to contest and revise the institution's goals and the terms of its accountability.

B&K do not spell out their conception of authority explicitly, but it is implicit in their conception of international institutions: “these institutions are like governments in that they issue rules and publicly attach significant consequences to compliance or failure to comply with them – and claim the authority to do so” (406). That is, international institutions claim authority to issue rules and publicly attach significant consequences to compliance and non-compliance. But, as we have seen in Chapter III., conceptualising authority as a claim-right means that the

authority's jurisdiction must be known; the authority must be sovereign. (To reiterate the argument: international institutions claim the right to rule on behalf of the relevant serviced population – a group coextensive with the aggregate citizenry of the states which are parties to the institutions in question – citizens who have a claim-right to an equal say in the making of decisions that affect them. Since sovereignty determines the group of the authority's subjects, establishes the identities of the ruler and the ruled, it follows that to claim authority, the institutions need to be sovereign.) Conceptualising authority as a claim-right also seems to be inconsistent with B&K's view that there is no worldwide political community to speak of (416). It seems implausible that international institutions should claim the right to rule on behalf of subjects who are unaware of their status as such, and perhaps unaware of the very existence of the institutions in question. As Reglitz notes [2015], B&K's conception of authority as a claim-right to rule renders illegitimate any non-democratic authority. It is therefore at loggerheads with B&K's view that global democracy is neither possible nor desirable.

It is possible that B&K have in mind an "indirect legitimation" system, where (democratic) national governments, authorised by citizens, in turn authorise international institutions. This reading saves their argument from the foregoing challenge, but does not save it altogether. As we have seen in Chapter III., all legitimate political authority is sovereign authority, since it is sovereignty that vests final authority in the ruler, and it is sovereignty that determines the authority's jurisdiction. We have seen that final political authority – sovereign authority – is therefore a binary quality either born by an instance or not. Final authorities cannot be less or more sovereign: being 'less sovereign' amounts to not being a legitimate,

final political authority, at all. For that reason, sovereignty cannot be shared (externally), pooled, or split. It follows that international institutions, such as they exist, do not bear sovereign (final political) authority, but exist as platforms of coordination between sovereign authorities, ultimately subordinated to sovereign authorities. Indirect legitimization of international institutions by sovereigns is therefore not possible: sovereigns may empower international institutions to help coordinate with equals, but they cannot share their sovereignty as long as this is conceptualised territorially, and is therefore comprehensive. In conflicts between sovereign states and international institutions, such as between the UN and Russia during the war in Ukraine, sovereign states get their way. In the end, lacking sovereignty and thus a clearly delineated jurisdiction, international institutions cannot have legitimate authority.

B&K's argument offers another way to illustrate the importance of a clearly delineated jurisdiction. The authors argue that securing the benefits international institutions provide "may depend upon these institutions being regarded as legitimate" (417). This is of course in line with the argument made earlier in this thesis that authorities simply cannot discharge their functions if they lack sociological legitimacy – that is, the support, or at least acquiescence, of the majority of their subjects. But who, in B&K's view, might the authority's subjects be? On the one hand, they seem to claim that these are states, which are provided benefits they could not otherwise obtain (417). On the other hand, they dismiss the consent of states as a plausible criterion of the legitimacy of international institutions on the grounds that, since many states are non-democratic and violate their citizens' human rights, they are themselves illegitimate and have no legitimacy

to confer on another authority (413). They settle on the claim that the ongoing consent of democratic states is a necessary, although not sufficient, condition of the legitimacy of international institutions (414-415). By contrast, the consent of illegitimate states appears, for B&K, not to be a necessary condition of international institutions' legitimacy – though they would also be subject to the institutions' authority. It is unclear how international institutions may be regarded as legitimate by states which do not consent to their authority.

B&K's formulation is correct: in order to discharge their functions to a satisfactory degree, international organisations need to be legitimate in a sociological sense. Their paper claims to be concerned with normative legitimacy, however: the moral case for an institution's right to issue authoritative directives (405). When B&K articulate their 'global public standard of legitimacy,' they argue from a moral objectivist standpoint, making the case for a standard that is in an objective sense morally correct. But the link between a standard thus articulated and the sociological legitimacy international institutions depend on is not clear, for the reasons discussed in Chapter III. Empirically, international institutions need the support of their subjects in order to discharge their functions. But as we have just seen, following B&K and considering states to be the subjects of international institutions, we end up with the arch-realist doctrine of state consent, where consensus among great powers establishes shared institutions that serve the interests of the rational actors consenting (Kissinger 1964). This is clearly not B&K's wish. Such 'methodological nationalism' seems to be at odds with their cosmopolitan commitments, since it assumes an analogy between states and

individuals, necessarily relegating individual liberty and global justice to the status of secondary objectives, as Schaffer notes (2010:16).

The other route, then, would be to consider individuals the subjects of international institutions. On the face of it, this would be consistent with the cosmopolitan approach. It is now individuals whose interests justify the authority of international institutions, and international institutions which provide individuals with benefits they could not otherwise obtain. This is at least sometimes correct: the efforts of international institutions to fight climate change, for example, *prima facie* benefit each individual. It is also individuals' consideration of international institutions as legitimate that is needed for them to adequately discharge their functions. Since, empirically, this is arguably not the case with any existing international institution, it would arguably render all of them illegitimate, irrespective of normative arguments for international coordination, global justice, and so on. Whether it is possible is another matter, but B&K's claim that there exists "no worldwide political community constituted by a broad consensus recognizing a common domain as the proper subject of global collective decision-making and habitually communicating with one another about public issues" (416) holds out little hope that it is. Finally, given that there is no "consensus on a normative framework within which to deliberate together about a global common interest" (Ibid.), one wonders how any such sociological legitimacy could be guaranteed to be in line with objective minimum moral requirements such as those set by B&K, which include the rights to physical security, to liberty, and to subsistence (420). It follows that if individuals, not states, are considered the subjects of the authority of international institutions, sociological legitimacy is an even more distant prospect.

We see that sociological legitimacy is unattainable for international institutions because the identity of their subjects – those who need to regard the institutions as legitimate – is unclear. In other words, sociological legitimacy is unattainable because the jurisdiction of international institutions' authority is not, and cannot be, delineated: they are not sovereign, and cannot be, as long as our conception of sovereignty applies to states. Non-sovereign international institutions are instead merely platforms of coordination between sovereign authorities. They ultimately fail in tackling the problems associated with the displacement of authority, because – coordination notwithstanding – the separateness of states commands competition and creates conflict, allowing private powers to rise above them.

Public, sovereign authorities' loss of power to (real and hypothetical) regional and global actors due to globalisation drives illegitimate rule as long as those actors cannot bear legitimate authority. They cannot bear legitimate authority because sovereignty ties such authority to states. Again: the tension between legitimate authority and globalisation is due not to the territorial conception of sovereignty as such, but to the territorial conception of sovereignty as it is, tying legitimate authority to the existing states system. We can imagine, with our current, territorial conception of sovereignty, territorially and thus comprehensively sovereign authorities which rule over larger regions, solving some of the problems posed by globalisation, *replacing* authority to the loci in which they can exercise sufficient power. At the limit, we can imagine a single, territorially sovereign, comprehensive authority ruling over the entire world, likely solving all of the problems posed by globalisation and discussed in this chapter. And there is a second option, which I will presently discuss.

The European Union: an outlier and a blueprint

The EU is an obvious objection to some of the observations made here. Indeed, it is an obvious objection to many of the observations made about international institutions anywhere. The most ambitious regional integration project in the world, supranational – rather than international or -governmental – and indeed, arguably federal, ambitions are inscribed into the EU’s founding treaties in their current state. What concerns my arguments in this thesis in particular is the fact that the EU, although manifestly not a state, appears to enjoy sovereignty in a limited number of areas. In other words, the EU appears to claim and have the right to issue binding directives to both its constitutive states and its citizens – the aggregate citizenry of its constitutive states – and, at least with regard to states, attach costs to non-compliance. Ordinarily, there are sovereign states, which exercise final political authority, and international institutions and other agents of power, which do not. *Tertium non datur*. Yet the EU exercises the kind of authority – public, political authority – which only sovereign states ordinarily do, but in a non-comprehensive fashion and without being a state. The EU studies sub-discipline of political science has produced a vast literature on this phenomenon, with the ultimate aim of understanding what kind of creature the EU is, often arguing that it is *sui generis*, a category unto its own. That observation is unhelpful in itself, amounting to little more than the tautology of saying “it is what it is and it is not what it is not” (Schönberger 2004:82-85, Schütze 2016:31), but need not be unhelpful if complemented by a properly theoretical (that is, widely applicable) perspective on what that category might be. Reviewing that literature in any detail is beyond the

purview of this thesis, but I will attempt, in the next few passages, to present such a novel reading through the theoretical perspective of territorial sovereignty developed earlier.

A key, relatively uncontroversial, premise of my argument is that the EU exercises final political authority over member states and their citizens in some areas. The Court of Justice put it this way: “the Community Treaties established a new legal order for the benefit of which the States have limited their sovereign rights, in ever wider fields, and the subjects of which comprise not only Member States but their nationals.” (Opinion 1/91 [1991] ECR I-6079, para. 21, quoted in Dashwood 2004:355) The Court has also on several occasions confirmed the direct applicability of European Union law (that is, that EU law is binding on citizens within member states without member states having introduced it into national legislation) and its supremacy over national law in case of conflict. (Case 90–91/63, *Commission v. Luxemburg and Belgium*, [1963] ECR 625; Case 26/62, *Van Gend en Loos v Netherlands Inland Revenue Administration*, [1963] ECR 1, quoted in *Ibid.*) Such EU sovereign authority is occasionally challenged on a normative plane, but rarely, if ever, on a descriptive plane. Scholarly polemics burgeon around the extent and precise boundaries of such authority rather than its existence.

The European Union exercises sovereign authority in areas in which such authority has been conferred on it through treaties ratified by member states and their citizens. In a small number of areas, such as customs rules, fisheries, commercial policy, and competition (as well as monetary policy for Eurozone states), the EU exercises exclusive competence, that is, it alone has the right to issue directives that bind member states and citizens. In a much larger number of areas, the EU shares

competences with member states, that is, sets broad rules within which member states may issue directives of their own. (Schütze 2015:85-87) (This is, of course, a crude simplification of a highly complex legal system with many controversial elements – I aim to focus only on the characteristics that are closely relevant to the question of the possibility of legitimate authority borne by entities other than the state.)

Sovereign authority is thus divided by functional domain; in certain functional domains, authority is exercised at EU level, in others, at member state level. As argued in Chapter II., there can be only one dominant principle of sovereignty. Since it is functionally split, the authority of either the EU or its member states is not entirely comprehensive. Their jurisdictions – their sovereignty – are therefore no longer primarily defined by the principle of territory. Although territory continues to constitute the limit of the authority divided between the EU and member states – for member states, their own territory, and for the EU, the aggregate of member states' territory – it is no longer the key defining characteristic of their sovereignty, their jurisdiction. The fact that I am a citizen of Hungary does not in itself tell me whose jurisdiction I belong to, what authority's directives ultimately bind me, in all areas. While the rules I am bound by in matters of education are set by the Hungarian authority, the customs rules I am bound by in trading internationally are set by the EU. A Moroccan fisherman in the Strait of Gibraltar is bound by the directives of the national authority relevant to him, that of Morocco. But a Spanish fisherman a little way to the north is bound by the directives of the European Union, not those of the Spanish authority.

Note that while the transfer of sovereign authority is clearly only partial, the shift in the basis of authority from territory to function is full. The EU's member states remain the sole full subjects of the international order and the principal focus of citizens' loyalties (Dashwood 2004:355-356); more trivially, they continue to exercise authority over most areas of their citizens' lives. But no longer all of them – a qualitative difference rather than a difference in degree. As we established in Chapter II, territorial sovereignty – under which jurisdiction is defined through territory alone – demands that authorities rule comprehensively over all areas. It follows that where, as in the case of the EU, there is a departure from comprehensiveness, another primary principle is needed for delineating jurisdiction and vesting final authority in an instance ruling over it; in short, another principle for grounding sovereignty. In the EU's case, that principle is the functional principle: the EU exercises sovereign authority over certain areas, binding member states and people party to those areas. Those member states that use the euro as their currency are bound by the EU in matters of monetary policy; those EU citizens that engage in international trade are bound by the EU's customs rules; those EU citizens who make their living from the sea are bound by the EU's fisheries policy, and so on. These groups of member states and citizens constitute the jurisdiction of the EU's authority within the relevant area; people outside of these groups, though they may be citizens of an EU member state, are outside of that jurisdiction. The territorial principle therefore, while supporting the functional principle in setting a further limit – territory – to jurisdictions, is secondary to the functional principle, which becomes the primary determinant of said jurisdictions.

This thesis will argue, in Chapter XI, that such a movement towards functional sovereignty is inevitable if the threat of illegitimate rule is to be averted. The EU's example shows that non-state or supra-state instances can exercise legitimate authority – but only if the territorial conception of sovereignty, where territory is the primary principle according to which the authority's jurisdiction is determined, is left behind. Clearly, the EU does not solve the displaced authority problem in itself, because it comprises only a small part of the geographical expanse of the world and a small number of its people: many actors of private power remain beyond its reach. But, by putting an alternative to territorial sovereignty into practice, it constitutes a blueprint with which the problem can be solved, as I will argue later in this thesis.

(iv) Conclusions

In this chapter, I have argued that globalisation – an increase in the density of the social, operating across the entire spectrum of the domains of social interaction – is made possible by technological change and driven by the market. I have argued that it undermines the primacy of the state as the primary building block of political organisation. It does so by driving a dramatic decrease in states' power in a range of areas – political, economic, cultural – of direct, everyday relevance to citizens' lives. Power in these areas to a significant extent moves elsewhere, to levels and agents beyond the control of the state. But as legitimate authority remains borne only by the sovereign state, the private power exercised by those agents beyond their membership, beyond the purview of public authorities, or in their stead, is illegitimate. Authority is displaced; to avoid illegitimate rule, it would have to be

moved elsewhere. But, bound by territorial sovereignty to the current state system, it cannot be.

I have considered and refuted three challenges to the displaced authority argument. First, I considered the claim that globalisation should retreat or is, as an empirical matter, retreating. I have found that certain globalised processes, such as the transnational supply chains of essential goods, may see deglobalisation, but more broadly the global flow of people, ideas, capital, and violence is highly unlikely to do so. Second, I have considered the claim that globalisation is but the current chapter in a centuries-old story of periodically increasing and decreasing global interconnectedness, driven by cooperation and conflict between states – and thus driving a strengthening, rather than weakening, of states' role. I have found that globalisation in the current sense is set apart from previous transnationalisation trends by its degree and its comprehensiveness; and I have found that arguments holding that the emergence of supranational power agents which in some way depend on states actually strengthen states are at odds with the conceptual content of (territorial) sovereignty. Third, I considered the challenge that the displacement of authority is best handled through the creation of international institutions. I have found that as long as our conception of sovereignty binds it to states, such institutions will be precluded from attaining legitimate, final political authority. This renders justification of their authority impossible, but it also makes the existence of such authority impossible empirically, as lacking a clear jurisdiction, international institutions will invariably be subverted by sovereign authorities. I have argued, however, that this points not to a mismatch of power with territorial sovereignty as such, but with territorial sovereignty as it is; if authorities at levels

higher than the state were territorially sovereign, some or all of the problems posed by globalisation would be solved. Alternatively, they can be solved by leaving behind the territorial conception of sovereignty altogether. In contrast to international institutions, the EU, where the primary determinant of jurisdiction is the functional, not the territorial principle, exercises sovereign authority in some areas, while its member states exercise sovereign authority in others. I will argue later in this thesis that a more general shift towards such a functional conception of sovereignty is inevitable.

Having outlined and defended the displaced authority argument, I move on to the second challenge to territorial sovereignty: the misplaced authority argument.

VI. Misplaced authority: deterritorialisation and territorial sovereignty

Deterritorialisation is, like globalisation, a fuzzy concept, but not yet very popular, at least not in the discourses of analytical political theory or international relations. This means that although the concept's boundaries are porous, it is not (yet) the “cliché of our times”, and defining it is therefore perhaps less of a challenge. Made possible by technological change and effectively caused by the actions of private agents – corporations, investors, civil society activists, terrorists, and others – agents of (private) power have come to exist that exercise power beyond their membership and over a population that cannot be territorially delineated. For the purposes of this thesis, therefore, deterritorialisation is *the breakage of the link between power and territory*.

As the geographer Stuart Elden enlighteningly notes, the notion of territory depends on having a way to grasp geographical space as calculable, which makes bounded territories – territorial jurisdictions – possible in the first place. But territory, Elden writes, is not merely a political *way of* conceiving of land, but the *political corollary* of the traditional Western conception of space as calculable, extensible, and three-dimensional, dependent on that conception of space. (Elden 2005) This, evidently, is the premise underlying the current structure of international politics. The *Stanford Encyclopedia of Philosophy* defines territory as the “spatial area of jurisdictional authority;” inasmuch as sovereign authority is territorial, its jurisdiction *is* its territory. Therefore: territory is *a geographical space within which political authority is exercised, one with the jurisdiction of that political authority*.

Globalisation and deterritorialisation are often confused and conflated. This is for the simple reason that territory in a political sense, perhaps in a justified manner,

appears meaningless, to many, in the context of globalisation. Globalisation implies that the locus of territorial sovereignty is not in the right place, that to avoid illegitimate rule, that locus needs to be shifted. But there is nothing in our discussion of globalisation in the previous chapter that suggests it is at loggerheads with territorial sovereignty as such. It is for this reason that deterritorialisation – which is, in fact, at loggerheads with territorial sovereignty – merits separate study. Globalisation does not mark a break with that traditional conception of space and of territory, but, as Elden notes, merely reconfigures the existing understanding. “What happens with globalisation is that this calculable understanding of space is extended to the globe,” (Ibid.), or indeed just a portion of the globe, so the state loses from its significance but territory as such does not. The question is not “what to rule over” but “where to rule over,” the ruler’s proper locus, be that local, regional, continental, or global, and what expanse of territorial jurisdiction their authority should cover. More simply yet, it is not the deeper characteristics of territory as such that are in question, but merely its size.

Although, as already established, not wildly popular in political theory or international relations, the concept of deterritorialisation does enjoy some popularity with European post-modern authors. However, there is reason to suspect that for them, its meaning is not far removed from that of globalisation. This discourse is to a large extent rooted in the “time-space compression” discussed by Marxist geographers from the 1970s onwards, concerned with the way that technological progress makes relative distances shorter and allows for the faster accumulation and reproduction of capital (Harvey 1989, Doghson 1999), even built upon by Giddens in his structuration theory. (1984) (The “time-space compression”

discourse is in turn rooted in Marx, who wrote in *Grundrisse* of “the annihilation of space by time,” [1973:524] discussed in more detail below.) The French cultural theorist Paul Virilio, for instance, argued that political territory and geographical space had lost significance due to the acceleration of communication, claiming, like Marx, that “the acceleration of communication has led to a replacing of geographical space with time” (Virilio 1986, 1999), or more generally that “space is displaced by speed” (Bauman 1995, Luke 1996). In the same vein, the Irish critical theorist Gearóid Ó Tuathail uses ‘deterritorialisation’ as shorthand for, as he eloquently puts it, “the spatial problematics induced by the relentless revolutions of the fin de millénaire vortex of time-space compression” (1998:82). *Pro* Virilio, Ó Tuathail understands the concept as a complex of challenges posed to the status of territory, territorially embedded understandings of geography, governance, and geopolitics, but in contrast to him, Ó Tuathail is sceptical that territoriality is disappearing. Castells also believes that deterritorialisation is primarily a product of the growth of global telecommunications networks (1996). Writing about the territoriality of cultural experiences and interaction, Giddens writes that “the very tissue of spatial experience alters, conjoining proximity and distance in ways that have few close parallels in prior ages.” (Giddens 1990:140)

The post-modern authors’ focus on communication may be misleading, likely a product of an indeed fin-de-millénaire, and now dated, view of the technological change that has fundamentally altered human experience over the past decades. Also misleading is the Marxist concern with the juxtaposition of capital and spatial distance, which produces the extreme, and perhaps ultimately undecipherable, abstraction of ‘time’ somehow substituting ‘space.’ Giddens’ focus on cultural

interaction allows him to ponder the lack of parallels in the past – something evidently untrue with regard to political power and authority, which was not territorial before the modern age (see Chapter II of this thesis) and is unlikely to be so after it. Most misleading is the lack of a clear distinction between globalisation and deterritorialisation. Yet in some respects this literature is enlightening. Virilio and Ó Tuathail are right on two important points. One, perhaps trivially, they are right that the emergence and growth of non-territorial power agents was enabled by technological change. Two, they are right that non-territoriality means not only, and indeed not necessarily, that the power's origin cannot be associated with a geographical point. More significantly, indeed essentially, it means that the power's subjects cannot be delineated geographically, that the communities affected by the power cannot be understood in territorial terms. Finally, Giddens is right that this change challenges our spatial experience itself, specifically by eliminating the link between geographical space and political jurisdiction; in other words, it challenges the territoriality of political authority.

A common consequence of both globalisation and deterritorialisation is the weakening of individuals' bonds to their physical environment, the locality. Both Giddens and certain cultural anthropologists make this point in relation to territoriality, but with an opposite normative thrust. Giddens argues that the deterritorialisation of localised cultural experiences should be interpreted neutrally rather than as an impoverishment of cultural interaction. (1990:140) Arjun Appadurai does the opposite when arguing that the “mediatization, migration, and commodification which characterize globalized modernity” bring distant conditions close but simultaneously make nearby conditions distant. (Appadurai

1990, Hernandez 2002) What appears to crystallise from all of this is that deterritorialisation strengthens, and further drives, the effect of globalisation discussed in the previous chapter with reference to Held: the weakening of the link to the local, the end of the state's inevitability as a 'national community of fate.'

As with globalisation, it is often argued that the effective cause of deterritorialisation – and indeed of the technological change which enables deterritorialisation in the first place – is the market. Implicitly or explicitly, this is argued by the Marxist geographers led by Harvey, Virilio, Ó Tuathail, Appadurai, and of course Marx himself in the *Grundrisse*, which is worth citing at some length here:

“The more production comes to rest on exchange value, hence on exchange, the more important do the physical conditions of exchange – the means of communication and transport – become for the costs of circulation. Capital by its nature drives beyond every spatial barrier. Thus the creation of the physical conditions of exchange – of the means of communication and transport – the annihilation of space by time – becomes an extraordinary necessity for it. Only in so far as the direct product can be realized in distant markets in mass quantities in proportion to reductions in the transport costs, and only in so far as at the same time the means of communication and transport themselves can yield spheres of realization for labour, driven by capital; only in so far as commercial traffic takes place in massive

volume – in which more than necessary labour is replaced
– only to that extent is the production of cheap means of
communication and transport a condition for production
based on capital, and promoted by it *for that reason.*”
(1973:524)

It is true that the market – the abstract institution and its concrete agents, corporations and investors – are the primary drivers of technological progress which, again, makes deterritorialisation possible. It is also true that the market and its agents are among the foremost drivers of deterritorialisation, and of the emergence of non-territorial agents of power. But they are not the only ones. It is social media entrepreneurs’ wish to reach people everywhere on the globe that has led to social media’s emergence as a key contemporary power agent. But it is humanitarian activists who create transnational movements which set norms and do good the world over. Further, the wishes of terrorists, hackers, private militaries, and indeed states’ wish to wage ‘metaphoric wars,’ war on phenomena – Western culture, consumer capitalism, terrorism, drugs, etc. – rather than other states, has driven the emergence of a non-territorial kind of violence today.

In contrast to our discussion of globalisation, historicism has a place here, to an extent. Deterritorialisation as we are experiencing it today is, like globalisation, a novel process. Non-territorial authority has existed before, as we have seen in Chapter II. In fact, non-political authority – most obviously, religious authority – is often non-territorial. Before the modern separation of ecclesiastical and temporal authorities, and most obviously in Christendom, political authority also existed in relative independence of territory. The question of *power* saturates this picture

somewhat, however. Although in mediaeval Christendom the Church exercised power, it did so mostly territorially, indirectly through the monarchs and directly in the Papal States and elsewhere through the Papal Army – though its authority was, of course, essentially non-territorial. The Church exercised some non-territorial power, but this was typically very limited and led to severe conflict with ‘worldly’ authorities. The most obvious case is the Church’s power to choose and install bishops, which led to the Investiture Controversy between Pope Gregory VII and then-King Henry IV in 1076 and lasted until the Concordat of Worms between Pope Callixtus II and Emperor Henry V in 1122, which affirmed the Church’s right to install bishops, but required them to swear an oath to the secular monarch, too. (This was an important precursor to the modern separation of religious and worldly authorities discussed in Chapter II.)

The elimination of the link between political jurisdiction and geographical space means that authority is no longer simply displaced, but misplaced. It is no longer the case that the resulting problem of illegitimate rule could be solved if authority were vested in another instance elsewhere, such as a regional or continental bloc. (Excepting, of course, a world state: since people inhabit the finite territory of Earth, a single planet-wide jurisdiction would assume authority over non-territorial power agents.) The challenge cuts to the core of our conception of political authority, to its linkage with territory. No territorial political authority, short of one encompassing all the territory inhabited by humanity, is a match for non-territorial power agents. Authority, borne only by territorial instances, is misplaced.

This argument – which I will call the misplaced authority argument – can be challenged along two axes. One challenge is empirical: it can be argued that

detritorialisation is overstated and does not lead to misplaced authorities, and that the link between territory and political authority, the equality of territory and jurisdiction, survives. The second challenge is normative: it can be argued that territorial authorities are needed to resolve conflicts that actually emerge between people. A third possible, theoretical challenge exists: it can be argued that global organisations resolve the problem of misplaced authority by assuming authority over areas where detritorialisation challenges state rule. Just as a world state would in theory solve the problem of illegitimate rule, international organisations, if they were *global* organisations in that their jurisdiction covered all of Earth, could solve the problem of illegitimate rule. Yet as I have shown in Chapter V, global organisations cannot attain legitimate authority, since the current, territorial conception of sovereignty ties such authority to states, and global organisations thus remain mere platforms of coordination. I will therefore not address this third possible objection here, but will instead consider the first two challenges, and attempt to refute them in detail. As before, I will rely on seminal texts where appropriate (subchapter II., the challenge from territorial rights) and excerpts from various different texts elsewhere (subchapter I., the challenge from sceptics).

(i) *The challenge from sceptics*

Although a great deal of power is exercised over a great deal of people by non-territorial actors, states – trivially – retain very significant relevance as power actors, as well as the sole bearers of legitimate political authority. They continue to regulate over much, arguably most, of our lives. We remain bound to the state by numerous sociocultural bonds, too: to varying degrees, we identify with the ‘nation’

and feel pride about the state and the society that constitutes it. We feel ‘at home,’ we can “bei sich selbst sein” in the state or society where we live. (And so perhaps it is a route, though not the only one, to freedom in Hegel’s understanding.) From this perspective, fantastical ideas about a fatal challenge to territoriality seem overstated to many authors, even if most of them would perhaps acknowledge that *a* challenge exists.

Divergent conceptions of deterritorialisation complicate review of the literature. But since deterritorialisation is discussed the most by political geographers and culturalist theorists of various kinds – cultural anthropologists and culturalist sociologists, political scientists, and geographers – scepticism about its nature and extent is mostly found in these literatures, too. A number of authors take issue with the claim – advanced above in this chapter and in Chapter V with reference to David Held – that deterritorialisation, as well as globalisation, challenges people’s connection with the local; that through the relativisation of spatial distance, the faraway becomes the nearby and vice versa; and that in this process, faith in ‘national communities of fate’ is weakened, thus undermining national identity and the sense of belonging. They take issue with it by arguing, broadly, that “this new world remains as varied, uneven, and contested as ever before, with little evidence of spatial homogenization.” (Amin 2001:6276-6277) They emphasise the heterogeneity of power agents: “society ‘consists of multiple, entwined networks of interaction, some of which are global, some transnational while others are international, national and local. [...] A certain amount of mess is perhaps the most general characteristic of human society, past and present.” (Mann quoted in Ó Tuathail 1998:87)

These arguments do not consider the problematic of political authority. Where they do – in passing – they acknowledge in a caveat that the picture they see there differs from the one deduced from cultural analysis. Amin writes, for instance, that “of course, in matters of regulation and governance associated with globalization, there is a very real and felt contest of jurisdiction between local, national, and global state and nonstate organizations.” (2001:6276) While deterritorialisation undermines authority through sociocultural change – through eroding the link to the local – this is of tangential relevance to the challenge to territorial political authority in the sense that territorial political authority is challenged whether or not sociocultural attitudes to the state, the ‘nation’, or indeed more broadly the local, change.

More problematic yet, these challenges do not consider the dynamic nature of their subject matter. Most of this literature dates from the late 1990s and early 2000s. Although the trends the authors identify are the same ones I am concerned with, they could not consider some of the most suggestive examples of non-territorial power agents, including social media and the virtual economy. Fatally, they did not consider the change’s direction, and the pace at which it is occurring. The tenability of territorial political authority is a matter of degree. The challenge to it from deterritorialisation is partial and plural: it challenges state authority in certain areas, such as the right to clean air or the taxation of certain kinds of enterprise. There is no discernible trend in the scale of these challenges; some are rather insignificant, others more significant. But there is a clear increase in their number, and due to this alone the challenge – and the problem of illegitimate rule – is becoming more severe. That severity determines the problem’s moral urgency. But illegitimate rule *exists* with the appearance of a single non-territorial agent exercising a small

amount of power over a small number of people. Whether a single instance of limited severity merits a theoretical or political response is another matter.

(ii) *The challenge from territorial justice*

The literature on territorial rights or territorial justice is not, in fact, a literature unto itself. It is a cross-section of literatures from various strands of political philosophy; or rather, arguments from those literatures applicable or applied to the question of how the right to rule over a particular territory can be justified. Territorial rights often overlap with, but are clearly distinct from, the right to property: simply put, as territory is – as we have established – the *political* corollary of space, it implies the right to issue and enforce directives within it, while property implies no such *political* authority (Angell 2019). However, the literature on territorial rights is more difficult, and ultimately perhaps even impossible, to distinguish in its essence (if possible in its focus) from the literature on sovereignty. Territorial rights are typically understood to cover, beyond the right to rule over a territorial domain – including the right to make war and peace, and to non-intervention – “rights to control resources within the geographical area, rights to control borders and regulate the flow of people and goods across them and rights to defend the territory against outside aggression.” (Moore 2020) These rights are largely identical to those associated with sovereignty, as discussed in Chapter II. (In her entry in the *Stanford Encyclopedia of Philosophy*, Moore considers this objection but states that “we can envisage entities that have some rights of jurisdiction but lack other elements in the territorial bundle,” such as the EU and its member states to a degree, or many federal states, to another. [Ibid.] Putting the example of federal states –

where federal subjects and the central government exercise sovereignty jointly, similarly to branches of government in liberal democratic states – to one side, making sense of the EU’s far-reaching sovereign rights indeed requires a departure from territorial sovereignty, as discussed earlier in this thesis.)

The theory of territorial justice commonly associated with Kant (in *Perpetual Peace*) and his followers in the territorial justice literature (notably, Jeremy Waldron) is in fact a theory of political authority. Kant and his followers claim, put simply, that states have a right to territory because, and to the extent that, they are just. He begins his argument from the right to property – by pointing out that such a commonly recognised right is necessary to handle the tension between two individuals’ freedom to appropriate the same finite number of objects in the external world. This forms the basis of his conception of political authority: once such a commonly recognised right is established, (just) institutions are needed to (codify and) enforce it. (Kant 1795, Waldron 2009)

The objection most often raised against this theory of territorial justice is one associated with Simmons: that the theory cannot easily handle the particularity of states, or in other words, it cannot account for the fact that particular authorities rule over particular bits of territory. (Moore 2020) Kant’s logic is based on the fact of physical proximity between people. The people who are most likely to interact, and thus enter into disputes about property, are those who live in close physical proximity to one another. They are therefore “morally obliged to enter the civil condition and acknowledge a political authority whose coercive law can guarantee their property rights.” (Moore 2020) This is the “principle of proximity,” the idea that “states should be formed amongst people who occupy the same territory [...]

because they are the ones who are most likely to be in conflict with one another.”
(Waldron 2009:8)

There is an obvious problem with the argument that proximity empirically underpins the particularity of states. The argument assumes that all citizens of state A are closer to each other than to citizens of state B – something that is clearly empirically false. Being on the territory of a state is a binary quality – one can be either on it or not. But distance from the boundary of a state – and thus from people living on the other side of that boundary – is a scalar quality. It is therefore possible that some citizens of state A living close to the state border are closer to citizens of state B living on the other side of that border than fellow citizens of state A living on the other side of the state. And while it is possible to argue that, notwithstanding physical proximity, citizens of the same state are more likely to enter into disputes over property than citizens of different states, choosing this path would make our argument circular.

There is another, deeper problem with the proximity principle. In Kant’s original formulation, the theory of territorial justice has an obvious universalist thrust. His primary concern, once again, is justifying political authority, and his – successful – justification is a minimalist one. Political authority exists to resolve conflicts over property; people have a moral obligation to submit to it for their property rights, and those of others, to be guaranteed. Moore notes that Kant’s empirical assumption that membership in cultural, ethnic, or linguistic communities defines jurisdictional domains is alien to the logic of his theory. It is my contention that the principle of proximity is just as alien to it: it is a purely contingent, empirical assumption that in no way affects the moral argument itself. Even though it is arguably the case

today that conflicts over property are increasingly likely to emerge between people who are physically removed from each other, Kant's requirement of them remains that they submit to a (common) political authority to allow for the resolution of such conflicts. The moral argument is universal, but the principle of proximity underpins particularity. The principle of proximity can thus be understood, more than anything, as an effort to hedge against the cosmopolitan, universalist direction Kant set his theory on: to lay the groundwork for his opposition to a world state (and support for a voluntary and dissoluble league of states without coercive power). (Kant 1991:351) Territorial particularity is not only not an essential component of Kant's argument; it runs directly counter to it.

Waldron's approach is different. He is concerned with justifying territorial particularity itself, rather than political authority in general. Specifically, he is concerned with justifying territorial authority by reference to something other than what he calls the "affinity thesis" of nationalists, grounded in the principle of – ethnic and/or cultural – self-determination. For Waldron, the "proximity thesis" is an alternative to the "affinity thesis" in providing a (hypothetical) account for the emergence of the state and the territorially bounded nature of state authority. He does not assign any particular moral weight to the empirical fact of proximity other than what Kant assigns to it: that the empirical fact that people are prone to have conflicts with those who live near them bestows on them a moral obligation to submit to a political authority to resolve those conflicts. But there is a deeper moral driver behind the argument, and that is Waldron's desire to challenge the nationalism he deems "preposterous and irrelevant, wildly incendiary and irresponsible." (2009:26)

The problem is that the empirical grounding remains quicksand. The empirical assumption that people living in physical proximity are the most likely to be in conflict with one another is the theory's core weakness, both in general and in the contemporary perspective. On the one hand, since being on the territory of a state is a binary quality, but distance and proximity are scalar qualities, proximity does not explain the particularity of states. On the other hand, even if that trivial objection were wrong, with globalisation and, especially, deterritorialisation, the proximity thesis explodes and no longer has a claim to being a useful practical principle for delineating the jurisdiction of authority. (Nor can the "affinity thesis," obviously. Non-territorial power pays no regard to territory, but it pays no regard to cultural, ethnic, or other boundaries, either.) Globalisation provides for communication on a global scale that allows conflicts to emerge between individuals who are physically removed from one another. Individuals in the "Global South," to misuse an ideologically heavily loaded term from the post-colonialist literature, can conceivably enter into conflict with individuals in the "Global North" over the practices of the latter's businesses in the former's territories on social media. Deterritorialisation, with its non-territorial power agents, undermines the idea that physical proximity is a necessary condition of interpersonal conflict, conflict over property or otherwise, even further. Suppose that a ransomware attack initiated by cybercriminals somewhere affects household and industrial users in Ukraine, Britain, the US, and Japan simultaneously. (Security services in the US may later claim, on the basis of soft intelligence, that the attack originated in Russia, but this is neither known at the time of the attack nor ever proven beyond reasonable doubt; whether, if that is the case, it was carried out with the backing of the Russian authorities or by a loose cannon hacker in a

garage somewhere in the Taiga is anyone's guess.) Clearly, the attacked individuals are in conflict with the attacker, but they are in all likelihood physically far removed from them. Kant's (and Waldron's) solution, a territorially sovereign state, does nothing to solve the problem. With globalisation and deterritorialisation, "proximity" has come to include all of humanity.

(Waldron does consider a similar objection: he cites Kelsen that if "one could exactly measure the intensity of social interaction, one would probably find that mankind is divided into groups in no way coinciding with existing States." Waldron does not find this compelling, arguing that the multitude of the kinds of relationship and conflict physical proximity creates outweighs, in practical terms, any psychological "intensity" Kelsen may have in mind when it comes to the practical need for a political authority to regulate individuals' dealings with one another. In his defence, at the end of this section of his argument, Waldron notes that "there may come a time when the world is so globally interactive that there may be little sense in continuing to think in terms of [...] little pockets of human settlement and population at some distance from one another." [Waldron 2009:14-15])

(iii) Conclusions

In this chapter, I have argued that with deterritorialisation – made possible by technological change and effectively caused by the actions of private agents – agents of power have come to exercise power over jurisdictions which cannot be territorially defined: that deterritorialisation is the breakage of the link between power and territory. Unlike globalisation, deterritorialisation is at loggerheads with territorial sovereignty as such. No territorial political authority, short of one

encompassing all of Earth, is a match for non-territorial agents of private power which evade, subvert, and undercut public authority. Authority, borne only by territorial states, is misplaced.

I have considered and refuted two challenges to this argument. First, I considered the challenge from sceptics: statements, mostly by political geographers and culturalist social scientists of various disciplines, to the effect that deterritorialisation is overstated and empirical sociocultural attitudes change little, and remain highly varied. I have countered that sceptics pay little regard to the question of political authority, which is in peril, and that illegitimate rule is a fact due to the emergence of non-territorial power agents, irrespective of these agents' effects on sociocultural attitudes to the local, the regional, and the global. I have also argued that the sceptics do not consider the dynamic nature of their subject matter, and that some of the most suggestive examples of the challenge which non-territorial power agents pose to territorial authority (but also to sociocultural investedness into the local community), such as social media, were yet to emerge at the time of their writing.

I then considered the challenge from territorial justice: broadly, the idea that the territoriality of political authority has moral weight in itself. Examining Kant's and Waldron's theories of territorial justice, I have found that the territorial ("proximity") principle was external to the moral argument in Kant's case, and tangential to it in Waldron's case. I argued that the proximity thesis – the idea that people must submit to a political authority in order to solve their conflicts over property – was always untenable as an explanation for the particularity of states, since being on the territory of a state is a binary quality, but proximity is a scalar

one. I further argued that, even if that were unsound, globalisation and deterritorialisation makes the proximity thesis explode, since conflicts, over property or otherwise, can and do emerge between individuals physically removed from each other. This justification for territorial authority would be empirically undermined whether or not it was morally loaded, but on inspection of Kant's and Waldron's texts, I have found that the justification of territoriality itself is not morally loaded.

Having now outlined and defended both the displaced authority argument and the misplaced authority argument, I move on to considering the effect of authority's displacement and misplacement: illegitimate rule.

VII. The problem of illegitimate rule

The displacement and misplacement of authority pose a threat to territorial political authority, the state. That threat is partly practical. Power is a condition of authority, as I have argued before in this thesis. Non-territorial *power* undercuts state power, thus weakening states' authority. But the threat is primarily moral. Successful justification of state authority is possible; Kant's, cited in the previous chapter, is one example of such a successful attempt, and I cited various others in Chapter III. State authority therefore at least *can* be legitimate; legitimate state power *can* exist, and state authority can perhaps even be *assumed* to be legitimate. No such assumption can be made regarding power exercised by non-state actors. Indeed, as shown in Chapter III of this thesis, legitimate authority is conceptually tied to sovereignty, which in turn is *contingently* tied to territory. Power exercised by actors other than the state is therefore illegitimate.

That is not a moral problem when the power in question is *private* in the sense that it affects individuals who consent to it, such as followers of a church or employees of an enterprise (given certain conditions, for instance that individuals are free to join or quit a church, employees do not enter into a contractual relationship with the employer under duress, and so forth), but does not affect those outside of its institutional membership. Non-state power becomes morally problematic when it limits or subverts public authority by affecting many people outside of its membership, either directly, while evading scrutiny and regulation by public authorities, or indirectly, by exercising influence on the acts of public authorities. When we think of non-state actors such as international organisations, intuitive protest is perhaps muted; it would be even if my reasoning so far had been flawless,

as intuitions are affected by status quo bias. But when we think of actors such as multinational companies, social media, or the global network of bitcoin miners, intuitive protest is stronger. This difference is trivial: it is partly due to the fact that the latter groups are newer than the former, and mostly to the fact that state authorities have in one way or another consented to the former, but not the latter. I have argued in Chapters III and V, on conceptual grounds, that international organisations (with the partial exception of the EU) do not wield legitimate authority. But that is not my main concern. My main concern is that global and non-territorial power actors wield no legitimate authority – but they do have power that undercuts legitimate authorities.

The significance of this is growing because of an increase in this power's intensity along two axes: the number of such power actors, and the extent of the power they wield, or the extent to which they affect our lives. Technological change – the key enabler of both globalisation and deterritorialisation – has fundamentally transformed the way power actors emerge and the way in which they operate; indeed, it can be argued that it has fundamentally *changed the way power is exercised*. The new power actor – by this I mean anything wielding power over a large number of people, such as a large enterprise, a social movement, a popular digital service, a terrorist group or other political militia, a producer of popular cultural products, and so on – is more often than not global, frequently non-territorial, and often undercuts public authority by exercising its power beyond its membership while avoiding public authorities' scrutiny. Not always: power actors do operate at the level of the state and below, and under state regulations. But given that power is increasingly exercised globally and non-territorially, it is *in their*

nature to transcend state boundaries, at least *enabling* them to undercut public authority. For example, a film produced in France may be initially aimed for the domestic market only, and thus bound by French regulations. But the filmmakers may well find that in order to make their enterprise more lucrative, they should sign a contract with a global distributor, and their film may soon find its way, through the internet, to audiences elsewhere in Europe, North and South America, and elsewhere, where public authorities have no control over production or access. A terrorist cell in Chechnya – by definition beyond the control of, since opposed to, public authorities – may aim only to depose the Kremlin-appointed leadership in their region. But they may soon find that that aim is easier to achieve with the help of like-minded recruits in the neighbouring Muslim-majority regions of Dagestan, North Ossetia, and Kabardino-Balkaria; online recruitment means that similarly frustrated Tatars further north in Kazan, perhaps over the border in Azerbaijan, and even further in Central Asia or the Far East may catch on to the thrust of their demands. (That is a plausible alternative genealogy of the Islamic State.) Power today is essentially global, and increasingly non-territorial, meaning that the number of non-state power actors, and thus the threat to public authority, is increasing by the day.

The greatness of the power of non-state power actors is also sharply increasing. They penetrate ever more areas of our lives, challenging state sovereignty in those areas. A good example of this is the virtual economy. With the mainstreaming of cryptocurrencies, states have partially lost control over the means of exchange, a standard, and very significant, area of state power. Non-state power actors also reach ever more people; a good proxy indicator for this is global internet

penetration, currently around 60%, and increasing at pace, with several dozen countries reporting figures over 90%. To reiterate: states alone (with the exception of the EU) are sovereign, and thus states alone wield legitimate public (political) authority. Global and non-territorial private power wielded by non-state power actors often undermines that public authority, producing illegitimate rule.

The trend – an increase in the number and power of non-state power actors, and the degree to which they undermine public authority – has been observed before, and the challenge it poses to state authority has been recognised before, but conceptualised differently. Because, whether we conceive of this state of affairs as, indeed, illegitimate rule, or “a condition of ungovernance” (Ó Tuathail 1998:85) or as a “ramshackle assembly of conflicting sources of authority” (Strange 1996:199) is not merely a matter of emphasis. It is a matter of our conception of authority. This state of affairs is a condition of ungovernance if we believe that ‘governance’ is public authority, or a product thereof, and therefore the power exercised over people by non-authorities is non-governance, or ungovernance. Indeed, Strange writes elsewhere that “the diffusion of authority away from national governments has left a yawning hole of *non-authority, ungovernance it might be called*” (Strange 1996:14, emphasis mine). This is understandable, though I would consider ‘governance’ to simply be rule that can be private as well as public, which is less than authority in that, where private, it does not ordinarily claim legitimacy. This state of affairs is a ramshackle assembly of conflicting sources of authority only if (1) under authority we subsume the private, non-political authority of non-state power actors – which places the novelty of this state of affairs, and the meaning of the argument, under doubt – or (2) we are so generous in our conception of *public*

(*political*) authority that we afford such authority to non-sovereign entities – an impossibility within the bounds of this thesis, where political authority is conceived of as being conditioned by sovereignty – or indeed if (3) we are willing to conflate authority with power. But if we understand authority as public, political authority, accept that sovereignty is a condition of authority, and only states are properly, that is, territorially, sovereign, then all power emanating from non-sovereign instances is simply private power. And when private power is exercised beyond instances' membership, and when it undercuts public authority, illegitimate rule results.

Illegitimate rule is a moral problem of the first order. This statement scarcely needs to be justified, the legitimacy of rule being the central problem of political theory. Its upshot is significant, though. Given that illegitimate rule is a first-order moral problem, and that it is the result of sovereignty being bound to states in the context of globalisation and deterritorialisation, there is a certain moral urgency to revisiting the concept of sovereignty, and releasing the bonds which tie it to territoriality, or states. In this chapter, I will seek to illustrate that argument through two case studies. I have picked two cases to pump our intuitions on illegitimate rule created by globalisation and illegitimate rule created by deterritorialisation. The first will consider globalised capital, specifically the ways in which it subverts state power. The second will discuss social media, focusing on the impossibility of regulating, through public authority, the immense power it exercises beyond its membership, as long as sovereignty is confined to territorial states.

(i) *The case of globalised capital*

The power of multinational corporations – the sheer significance of a large investment for a national economy in terms of jobs and value added, combined with corporations’ globalised nature, which gives them freedom to pursue production virtually anywhere on the globe – means that states lose from their *power*, their ability to rule over their territorial jurisdiction in a crucial area, its economy. This thought has immense intuitive power; as I have noted in Chapter V with reference to a number of left-leaning social scientists whose imagination it has captured, it can to an extent be interpreted as the ‘tail wagging the dog,’ or as ‘markets mastering states.’ I do not share the normative opposition of the writers responsible for these characterisations to multinational corporations or to the market economy in general. But on a strictly empirical plane, the private power of foreign investors does in some cases exceed, and indeed restrict or subvert, the public power, and thus the authority, of states.

Capital by its nature drives beyond every barrier, as Marx rightly noted in *Grundrisse*. (1973) Multinational corporations are only part of the story. The capital managed by international financial institutions like the World Bank, the IMF, or the European Investment Bank and the capital managed by sovereign states such as China or Russia also drives beyond every national barrier. The key difference is that this kind of capital serves primarily political rather than commercial ends, and its movements enjoy the support of sovereign states, both donors and beneficiaries. Therefore the influence of such capital on public authorities is not problematic from the perspective of legitimacy, as opposed to purely private capital, which exercises such influence while evading public authorities’ control. The key point is that

capital is global: although it may be tied to territory as such, it is not tied to any particular territory. Multinational corporations have almost complete freedom in choosing where they set up operations. Their freedom is to some extent limited by the states in which they are based or in which they operate: contravening these states' international sanctions regimes or their rules on taxation, data protection, or labour may have unwelcome legal consequences. But, should they find these limitations excessive, they can always choose to move their operations elsewhere.

Global capital can extract regulatory concessions in return for investment – which is how it exercises power, how it subverts state power. At the point where a sovereign authority's rule ceases to reflect the wishes or interests of that authority, and instead reflects those of private power, we can point out illegitimate rule. Some believe that the Hungarian government's December 2018 decision to increase the legal overtime limit from 260 to 400 hours per year was made pursuant to requests from German automotive manufacturers; so much was admitted by the country's foreign minister. An EU initiative to harmonise the taxation of digital services failed because smaller states use low corporate tax rates to attract investments, income the EU proposal did not sufficiently compensate them for. (Corporate tax rates in the EU vary from 9% in Hungary to 34% in Belgium.) Although agreeing to, and accommodating, such investment is of course the sovereign authority's choice in any such case, it is arguably not a free choice: the price of not agreeing, in terms of economic performance, jobs, and ultimately their populations' living standards, may be too steep. The capital on offer, to them, may constitute awesome power, far outweighing their own.

An increasing share of capital is globalised, meaning that an increasing share of investment subverts state power. Big capital – automotive manufacturers, agricultural giants, large mining companies, etc. – command enough power, that is, have the potential to create enough jobs and enough value added, to severally demand significant regulatory change from governments. But small capital – SMEs – are increasingly globalised, too; technological change allows an increasing number of market players similar freedom to that afforded to the largest players. And although small capital's power is insufficient to demand significant regulatory change from sovereign authorities, much less directly, collective pressure is sufficient to force such policy change indirectly.

Similar observations drive many writers to call for a stricter approach to globalised capital – stricter regulation, stricter taxation – but this an exercise in futility. Although regulatory harmonisation – harmonisation of the areas of regulation in which competition for investment is fierce: labour regulation, corporate taxation and subsidies, primarily – may be in the interest of all, any state may gain a competitive advantage by undercutting the rest. Calls for stricter regulation necessarily face a collective action problem: as argued in the previous chapter, the separateness of states commands a divergence of interests and thus competition (and conflict). There is only one way to overcome this problem: a supra-state authority with the right to issue binding directives on globalised capital. As shines through from the foregoing discussion, however, such a supra-state authority remains impossible as long as sovereignty, and thus legitimate authority, remains tied to territoriality. In other words, the collective action problem is the reason the deterritorialisation of capital necessarily makes legitimacy conceptually

impossible, if my claims that sovereignty is a condition of legitimate authority and it is (contingently) tied to territory, are correct. To tackle the problem of illegitimate rule which arises from the power of globalised capital subverting the power of the state, it is the sovereignty-territory knot which must be untied.

(ii) The case of social media

Social media – an aggregate term for the operators of social media platforms, private powers – is a non-territorial power actor; there is only one, global internet, from which smaller, national-level entities cannot be effectively separated, as argued earlier in this thesis. This puts social media, like most internet-based power agents, over and above any national-level regulatory oversight; over and above any sovereign, that is, properly legitimate, oversight. Its immense power is morally problematic in two respects: (1) that it is exercised beyond its membership, while evading regulation by public authorities, and (2) in that it arguably undercuts public authority by *acting as one*. The power of social media thus results in illegitimate rule.

It is relatively uncontroversial to say that the internet is essentially non-territorial. As argued in Chapter V, efforts by authoritarian regimes around the world to separate a national internet from the global web and thus shield their populations from information they do not control have borne limited fruit. (Yang 2012, Epifanova 2020) The internet allows for the evolution of business models that have only tenuous links to territory. The largest social media enterprises, Facebook and Twitter, are registered, pay taxes in, and are regulated by the United States. Yet their reach and activity is global. Their revenue comes from advertisement

originating in diverse locations and reaching users in every corner of the globe. This makes them highly mobile and bolsters their independence from public authorities.

Social media principally exercises (private) power in two ways: by providing information, shaping the public sphere, and by taking information, collecting and controlling data about their users. Although we may intuit that both of these exercises of power are illicit, they are not in themselves illegitimate: as acts of a private power, they are not ordinarily subject to the requirement of legitimacy. The legitimacy requirement becomes salient only when such private power is exercised over a population beyond its members – and can be granted by a public authority – or when it undercuts public authorities by appropriating tasks properly belonging to them.

Social media does both. They are the information networks that bring most people around the world their news and form their opinions about events in politics and the economy. (Swart et al.) How exactly they fulfil that role is not entirely clear, because they operate according to their own rules, which are less than fully transparent. It appears certain that social media platforms decide how political advertising is regulated and they decide over monitoring and enforcement – and that political advertising on social media can decide political outcomes. There is no accountability beyond social media providers' word for their pledges to install new artificial intelligence or machine learning systems to filter out bots and 'harmful' political messaging. What is 'harmful' is determined by social media providers themselves. By shaping the public sphere and swaying electoral chances, social media providers no doubt affect a significant population beyond their members (users), and therefore legitimacy can be demanded of them. Furthermore, if we

believe that setting broad rules for the operation of the public sphere and for ensuring equitable electoral races is firmly within the proper remit of public authorities – because democracy requires that public, not parochial corporate, interests dictate such rules – then in appropriating that task, social media undercuts public authorities, once again calling for legitimacy. Yet due to their non-territorial outlook, they are largely beyond regulation by the public authorities which could alone confer such legitimacy on them.

Social media also exercises power by collecting and controlling data about users. It appears that they hold much more information about individuals than any private company did in previous times. The wealth of information gathered through people's actions on social media – tracked, logged, compiled, and analysed by providers – is itself massive, given that a large part of the lives of a lot of people takes place in the spaces they control. However, there is ample evidence that in some cases, information collection goes beyond that. Technology news site TechCrunch revealed that Facebook had run a programme for three years in which they paid teenagers a small amount to install an app on their phones which gave the company root access to all their data. That included private messages in all social media and instant messaging apps, including all visual content shared and received, as well as emails, web searches, browsing activity, and ongoing location information. (Constine 2019a) In another 'market research' push, Facebook acquired and advertised an app which allegedly relied on a VPN connection to give Facebook access to all of the users' data, including Wi-Fi and cellular data usage, even when VPN was turned off. (Constine 2019b) In other words, Facebook gained

access to an amount and kind of information that is typically protected by national privacy laws.

Many private powers exercise power over a population beyond their members. Traditional media, like social media, influences the way people think about current events, politics, and the economy, shaping the public sphere. But in these cases, the sovereign state – a legitimate authority – works in the background, controlling and limiting the space within which private (or public) companies exercise power, granting legitimacy to it. That is not the case with social media. National privacy laws are easily circumvented in the online space, as shown by the examples above; the overreach triggers the legitimacy requirement, but since no (or little) oversight by public authorities exists, legitimacy cannot be ensured.

Faced with these dilemmas and evidence of unregulated power by the agents of the global market economy, many writers, both within and beyond academia, lean towards developing ever more sophisticated regulation. I believe that quest is unlikely to provide a solution. The nature of the problem is not simply empirical: it is not the case that social media is unregulated because, as a matter of fact, nobody has regulated it yet. National regulations related or at least applying to social media – privacy laws, advertising laws, and general internet content regulation – exist, and their volume is growing. (Busch et al. 2018) Copyright infringements are banned in most jurisdictions, as is child pornography. Gambling is outlawed in many places. (Ibid.) Such regulation is easily circumvented, of course: one only needs a VPN to access sites allowed in another jurisdiction, vast online libraries make copyrighted books and journal articles freely available through a proxy, and the dark web – which, contrary to popular assumption, is easily accessible to the layman

– offers a wealth of child pornography. Still, regulation, if it exists, should – based on the discussion above – make social media easier to make sense of with our conventional conceptual toolbox. If social media providers simply defy regulation that exists and applies to them, then they are acting illegally, rather than merely illegitimately or in a space without legitimate authority.

I believe it is not all that easy. As I have argued in previous chapters, a baseline condition of legitimate authority is that the authority's subjects have a degree of control over it. Such control resolves legitimacy issues arising with regard to agents of private power where a public authority works in the background: those which are (typically) based in one country, serve the residents of that country, and are regulated by the authority in that country – over which the residents have a degree of control. Traditional media companies are forced by the state to follow strict rules in handling the data they collect, and face consequences if they breach those rules. (An obvious exception to this general observation is that certain traditional media outlets in some countries are relatively widely consumed in certain other countries – German television, for instance, is widely watched in Austria. But this is, again, not a theoretically relevant exception; the Austrian authority can at will shut down German television in the country, just like Ukrainian authorities shut down Russian television.) That is not the case with social media. Facebook is based in the United States and regulated by the US government, but it serves people – and collects data about people – in 200 other countries who have no say over US government policy. The non-territorial nature of both the actor itself, and the way in which it exercises power, means that national-level regulation will never make the exercise of power legitimate.

Global regulation is an obvious way out – perhaps too obvious. As argued in the previous chapter, a world state would solve the problem posed by deterritorialisation, since it would effectively mean territorial sovereignty over all the territories inhabited by mankind. On the surface, it appears that social media may itself be the solution to some of the problems most often raised in connection with a world state. For instance, one common objection is that in lack of a global public sphere, informational asymmetry between the subjects of the authority would prevent them from having an equal stake in the polity's institutions, leading to majority tyranny and persistent minorities. (f.i. Christiano 2006) Some scholars, however, argue that the internet and, in particular, social media, have the meta-political effect of creating 'citizens of the new global order'. (Keane 2011). More modestly, others suggest that social media has created, if not a single deliberative online public sphere, then at least deliberative online public spheres, in the plural, which are supranational in scope. (Volkmer 2014) It is clear that social media has a democratising effect inasmuch as it dismantles certain elite privileges which Christiano and others feared a global polity would entrench. Access to published materials is available to a lot more people than it was before, as is the freedom to publish their own materials. One good example is the Chinese green movement, which has exercised some influence over government policy – influence a clandestine social movement in authoritarian China could never hope to attain offline. (Volkmer 2014, Sun et al. 2018) But social media also has a polarising and fragmenting effect, which makes it doubtful that it is able to function as a truly deliberative sphere. People are exposed to materials they have – knowingly or not – chosen in advance, not to ones that may be important but that they may find irritating. (Sunstein 2017) It drives a silo effect where the community does not, as

it should, have a wide range of common experiences, which is likely to lead to difficulties in fostering understanding between people and in addressing social problems. (Ibid.) In short, social media goes a long way towards interest articulation, but falls short with respect to interest aggregation. (Lutz and du Toit 2014) Corporate interests shape the global public sphere, and therefore it is not a truly deliberative public sphere. It cannot form the basis of a worldwide political community, weak or strong, in which there is space for debate and deliberation among citizens. Christiano and others' objection holds; there cannot be a global political community, because there is no 'global' sovereignty. Accounts of legitimate authority at the global level ultimately fail because sovereignty is needed to grasp the boundaries of the group of the authority's subjects – and therefore, to make legitimate authority possible, as shown previously in this thesis.

Clearly, the greatest hurdle to legitimate authority over essentially non-territorial power agents is the fact that territoriality is linked to sovereignty. If the concept of sovereignty could be revised away from the territorial principle – on which, as we have seen, it is not dependent – the problem of illegitimate rule, by social media and other global and non-territorial power actors, could be solved.

(iii) Conclusions

Having examined the effects of globalisation and deterritorialisation on authority – displacement and misplacement, respectively – I have in this chapter turned my attention to the first-order moral problem of illegitimate rule, which I believe these processes cause. I have argued that global and non-territorial private power evades, undercuts and subverts the public authority which states alone bear, since they alone

are sovereign. I have argued that the significance of this problem is growing because the number and power of globalised and non-territorial power actors is increasing. This is because the twin processes of globalisation and deterritorialisation have fundamentally changed the way power is exercised, and non-state power actors now, as an empirical matter, increasingly tend to be global and often non-territorial, making them increasingly able to evade and subvert public authority.

I have discussed two cases to illustrate these points. First, I have shown that globalised capital often subverts state power through superior power, forcing its will upon sovereign authorities and exposing their subjects to illegitimate rule. I have also shown that social media, the quintessential non-territorial power actor, exercises significant power over people beyond its membership, and appropriates tasks properly belonging to public authorities by shaping the public sphere and collecting and controlling data – and it does so free from any proper oversight by sovereign authorities due to its non-territorial nature. I have found that regulation by sovereign authorities cannot solve either problem. Ultimately, I have found that, short of a global political authority, a world state, the only way to solve the problem of illegitimate rule that results from globalisation and deterritorialisation is to posit an alternative to territorial sovereignty.

That is the task of Part III. In what follows, I will survey and analyse potential alternatives.

Part Three: Towards a Way Out

Behold, how good and how pleasant it is for brethren to dwell together in unity!

(King James Version of the Bible, Psalm 133)

*Oh, how I love Humanity,
With love so pure and pringlish,
And how I hate the horrid French,
Who never will be English!*

*The International Idea,
The largest and the clearest,
Is welding all the nations now,
Except the one that's nearest.*

*This compromise has long been known,
This scheme of partial pardons,
In ethical societies
And small suburban gardens—*

*The villas and the chapels where
I learned with little labour
The way to love my fellow-man
And hate my next-door neighbour.*

(G.K. Chesterton: The World State)

VIII. Introduction: Whither Non-Territorial Sovereignty?

In the foregoing, we have established that legitimate authorities are sovereign and therefore, as things stand, territorial. We have also established that, due to the twin processes of globalisation (which drives the displacement of authority) and deterritorialisation (which drives the misplacement of authority), territorial authority is challenged, and an increasing number of non-state and/or non-territorial instances exercise an increasing amount of private power beyond their membership, beyond the reach and sometimes in lieu of public authorities. We have called this phenomenon illegitimate rule. To rectify that problem – a moral problem of the first order – we need to revisit the link between legitimate authority, sovereignty, and territoriality. Indeed, it has transpired from our discussion so far that the solution to the problem lies somewhere in the relationship between those three concepts.

The findings of Chapter II. suggest that the link between legitimate authority and sovereignty is conceptual and therefore static: sovereignty, or rather, the function it fulfils, is essential for legitimate authority to emerge. Sovereignty alone determines the identities of the ruler and the ruled, the *jurisdiction* of the authority. Whichever justification of legitimacy we accept, an authority's legitimacy depends on the authority's subjects (be that because it benefits them, or they have consented to it, or because of a particular kind of relationship created between them, and so on), meaning that the subjects' identity must be known for legitimacy to be possible. That conceptual link – between the *function* of sovereignty at least, and the legitimacy of any political authority – is therefore necessary.

It is with regard to the relationship between authority and territoriality that the problem of illegitimate rule is most clearly visible. On the one hand, power is a

necessary condition of authority, and power, as we have seen in Part Two, is going regional, global, offshore, and online. On the other hand, authority is also necessarily sovereign, and therefore territorial. The combination of the two means the legitimate authority exists to a decreasing degree, in a decreasing number of domains.

This recap makes it clear that the relationship we should be interested in is that between the function of sovereignty – the delineation of the authority’s jurisdiction – and territoriality. If the jurisdictions were not territorial, there would be no illegitimate rule problem – but since sovereignty is a condition of authority, for that to be achievable, sovereignty needs to be decoupled from territoriality. As discussed in Part Two, there is another option. If an authority’s jurisdiction extended to the whole of the globe and covered all of humanity, there would, again, be no illegitimate rule problem. This – one overarching authority relevant to all of the world’s population – is what one popular strand of alternative accounts of sovereignty points towards. That is true not only of cosmopolitan world state theories, but also on at least one reading of what I call, for lack of a better term, the ‘Marxian no-state theory’ of what replaces states following a proletarian revolution. More curiously still, it is true of neo-mediaevalist theories of competing and/or overlapping authorities. But the idea of a single global authority fails to fulfil the condition of plausibility (though not, as is often argued, feasibility) due to the empirical fact of the lack of a global demos. It may also fail to fulfil certain normative conditions, but those are tangential to my argument.

The argument presented in this part of my thesis rests on the normative premise that the holders of power are duty-bound to guarantee the legitimacy of de facto power.

Inasmuch as they wish to guarantee such legitimacy, in the circumstances of globalisation and deterritorialisation, they will necessarily move towards the establishment of *functional* authorities, which exercise authority within a functional domain, independently of territory. The EU, as argued in Chapter V, is an early example of functional sovereignty in action.

The next chapter will review and critically analyse alternative accounts of sovereignty, finding that, by pointing towards a single global authority, they fail on empirical grounds – or simply fail to solve the problem by not accounting for sovereignty at all, thus remaining vulnerable to the ultimate arbiter challenge. Further, I discuss my own suggestion for an alternative account, functional sovereignty. Alongside discussion of the concept, I will offer some ideas for its operationalisation – while reserving that the task of this thesis is to create the *conceptual* conditions for legitimate authority in the context of globalisation and deterritorialisation, rather than to develop a fully-fledged alternative theory of sovereignty.

IX. World States

My analysis of illegitimate rule, focused on the conceptual triangle of sovereignty, authority, and territoriality, is, I believe, original. But the problem itself – that legitimacy is challenged by economic integration with no accompanying accountability mechanisms, or the possibility thereof – is evident to many other writers.

Arguments for some sort of global authority come in many shapes. Nonetheless, it should be at least theoretically possible to distinguish two main types of such argument. ‘Thick’ theories of the world state call for a fully-fledged global polity with a single authority ruling comprehensively over all domains of social life. Although the idea has a long and rich history, spanning Dante (1904), Vitoria (2007), Fichte (1801), and H.G. Wells (2018), to name only a few, no developed institutional proposals can be found in contemporary political theory. ‘Thin’ world state arguments (to use the term very liberally, given that Beitz 1979, Cabrera 2004, Held 2010 f.i. do not, in fact, call for a world state) propose a more gradual movement towards a single global authority, on the basis of one or more globally relevant moral obligations and of a morally arbitrary global distribution of resources, as well as benefits and harms from human activity.

In the following, I will argue that the category of ‘thick’ theories, at least in the form of serious institutional proposals, if not as a set of long-term normative ideals, is by and large empty, with no serious contemporary scholars risking ridicule by braving the plausibility objection fatal to uncompromising world state arguments. Paradoxically perhaps, as we have alluded to before, such arguments *would* resolve the problem of illegitimate rule. ‘Thin’ theories – a crowded category – are easier

to take seriously as they are less removed from lived realities. But, plausible as they may appear, they fail to resolve the problem of illegitimate rule due to the conceptual impossibility of supranational instances with legitimacy that exist alongside and over territorially sovereign states; they fall victim to the ultimate arbiter challenge. Put differently, they resolve the problem only at their hypothetical endpoint – the ‘thick’ conception of the world state.

(i) *Thick theories*

The normative justification for a thick account would be the same as for the thin accounts discussed later in this chapter. The most fundamental argument is that people are (or should be) members of a single universal community, and therefore arguments for the restriction of certain universal moral norms to the national (or other smaller) community fail. The argument, at its core, relies on showing that (1) empirically, there is no greater homogeneity (‘agreement’) in smaller units than globally; and (2) that even if there is, it does not justify limiting moral requirements to any particular smaller group. (Beitz 1983:596) In his *Political Theory and International Relations*, Charles Beitz argues that the scope of the Rawlsian original position should be global rather than national, because national societies are not, as an empirical fact, self-sufficient, and Rawls’ scheme of social cooperation is best understood on the global rather than national scale (although Beitz later withdrew the latter argument, while sticking with its conclusion [1983:595]). (1979:133-136) Though Beitz, of course, proposes a thin world state theory (and would no doubt protest against its characterisation as a world state theory at all), a thick account could rest on this argument just as well.

Such normative support for a world state has been challenged on normative grounds by numerous writers. Philip Pettit's neo-republican theory, which asserts unfettered state sovereignty on the basis of non-domination – arguing, broadly, that non-domination among states is a condition of non-domination within the state – is one example. Successful as Pettit's and others normative challenges may be, they are not, I believe, the primary reason for the dearth of thick accounts of the world state. (Not least as the same broad argument lies beneath thin accounts.)

The most popular challenge to the thick account *within* the cosmopolitan camp – let us call it the *feasibility objection* – is empirical in nature. This objection typically takes the following form. As an empirical matter, the conditions for a world state are not in place; there is no global demos, nor are there institutions to allow for the possibility of its emergence and functioning. For instance, Habermas argues that:

“On the global level, [...] both the competence for political action of a world government and a corresponding basis of legitimation are lacking. The United Nations is a loose community of states. It lacks the quality of a community of world citizens, who can legitimate their political decisions – and can make the consequences of those decisions into reasonable burdens for those affected – on the basis of democratic opinion- and will-formation. [...] The political culture of a world society lacks the common ethical political dimension that would be necessary for a corresponding global community and its identity formation. [...] A cosmopolitan community of world citizens can thus

offer no adequate basis for a global domestic policy. The institutionalization of procedures for creating, generalizing, and coordinating global interests cannot take place within the organizational structure of a world state.” (2001:105-106, 108)

Granted, Habermas’ focus is on power rather than authority. Like other writers discussed in the section on ‘thin’ accounts of the world state, he argues for a “multilevel politics” emerging as a result of interactions between political processes at various levels. Still, his argument, and others like it, are tainted by status quo bias, as Beitz points out. (1983:595) This is made particularly clear by Habermas’ aside on the United Nations, which seeks to show that a world state as such is unfeasible by reference to the United Nations *as it actually exists*. More broadly, the intuition that the ethical basis for a political community is lacking at the global level is clearly driven by actual lived experience, rather than theoretical possibility. That renders the objection weak. To be successful, such objections would need to show that emergence of a world state is unfeasible in general, not simply that the conditions for it are not in place today.

Another – cosmopolitan – challenge with great purchase is one made rooted in Rawls himself, but most eloquently stated by Pogge, namely that a single global authority poses significant risks of oppression. Pogge states that

“there is no realistic prospect of establishing peace through a world state, because no national government can come to rule the world without a global war, and the strongest governments won’t allow the creation of independent

effective mechanisms of adjudication and enforcement.

Given their averseness to risk (their greater concern for surviving than for prevailing) it would be irrational to accept powerful organs of world government, which, although designed to curb each government's power, could affect its security in either direction." (1989:222)

Although Pogge's formulation may be misleading, his argument is formally correct. He talks about the lack of a "realistic prospect" of establishing peace through a world state, but he clearly means the general empirical *impossibility* of attaining a world state through anything but global war. He talks about what "the strongest governments" – as we know them – *would* do (*ceteris paribus*), but provides reasons that are not contingent: that states' primary concern is survival and therefore they are as a general rule disinterested in submission to a global authority. So far, he has successfully demonstrated, then, the unfeasibility of a "thick" world state – so long, of course, as it would replace or rule over territorially sovereign states, a modest enough empirical baseline to avoid the charge of status quo bias from any at least minimally charitable critic.

Where, on my reading, Pogge's argument may be insufficiently elaborated is the undefended, implicit premise that states are the sole actors in international politics, and therefore their say-so would be essential for a "thick" world state to emerge. It can be argued – and is perhaps most properly argued – that people, the citizens of states, are best thought of as the key harbingers of change in the international system. As state governments depend on the (at least tacit) consent of their citizens, surely citizens could, by some democratic act or through revolt, compel

governments to submit to a global authority they would not otherwise submit to. Were he part of this debate, Pogge could at this point level Habermas and others' "no global demos" objection to counter my challenge. He could claim that, as an empirical fact, the institutional framework or the ethical basis is lacking for citizens to form and express their will, or even coordinate their actions, globally. But this challenge, as we have seen, falls victim to its status quo bias; in other words, the conditions for such a global demos to emerge could emerge under the conditions we can reasonably appreciate form a legitimate empirical baseline. Pogge could at this point respond that since states are, as it stands, the only loci of legitimate authority, and since they are primarily interested in survival, they could and would prevent such a turn of events. Perhaps, but such an argument would rely on a smorgasbord of new assumptions unrelated to the original argument – governments' ability to exercise long-term strategic foresight, a virtually unlimited perception and understanding of, and control over, citizens' thinking and actions, and so on. These would open up new sets of problems, at least some probably impossible to defend for independent reasons. Still, at the very least, we can appreciate that a transition to a global authority would be unlikely to be peaceful. That is insufficient to conclude, as Pogge does, that there is "no realistic prospect of establishing peace through a world state;" it is merely saying the opposite, that there is no realistic prospect of establishing a world state by peaceful means. (The depth of the difference will be keenly appreciated by any reader of Marx.)

Therefore, to my reading, Pogge's argument, sophisticated as its articulation may be, also fails, falling victim to the status quo bias. I propose that it is not just Pogge and Habermas, but the feasibility objection as such. To argue that a "thick" world

state is unfeasible in general is to consider too large a part of lived empirical realities as fixed. While it is a reasonable empirical baseline that states are the sole loci of legitimate authority, and they would need to give way to a world state if one was to emerge, it is not reasonable to assume that the conditions for global democratic will-formation cannot emerge in that situation. Yet the feasibility objection does have significant intuitive power: a “thick” account of the world state would have to rely on a large number of assumptions which appear, if not unfeasible, very difficult, and lengthy, to attain to most readers: citizens globally developing the conditions for global deliberative action, without the active participation of states, and then, armed with a global discourse, compelling – likely at least partly with arms – all states to submit to a global authority. Not unfeasible, but certainly implausible in the sense that although it is possible to conceive of a chain of events leading to the establishment of a world state, the chain is so long, and the factors of both known and unknown uncertainty so many, that figuring the order of its constituent links is impossible. Better put, the feasibility objection is really a *plausibility objection* – and as such it is effective.

This explains the dearth of “thick” accounts in serious political theory; if they did exist, they could not provide a solution to the problem discussed in this thesis. Sovereignty, or at least its function, is necessary for legitimate political authority, I have argued. Yet sovereignty is contingently tied to territory. If global and non-territorial agents of power are to be legitimate, while not departing from the territorial conception of sovereignty, such sovereignty must be made to apply to an instance that is global in scope, a territorially sovereign, comprehensive global

authority. But alas, the plausibility objection towering over that idea has rendered it markedly unpopular.

(ii) Thin theories

Put simply, thin conceptions of the world state move in the same direction as thick theories, but stop somewhere along the way. Some (f.i. Cabrera 2004, Held 1995) acknowledge that the solution they propose is temporary in nature, but a stop on the way to a fully-fledged world state. Others (f.i. Beitz 1979) seem to believe that they provide a full solution.

On the plausibility front, thin theories do much better than thick accounts would – hence, no doubt, their popularity. Quite simply, what they are proposing is not so far-fetched as to be discounted on the grounds that with goals so distant, work invested in progress holds out little promise of gratification. Yet, viewed through the conceptual lens, thin theories fare considerably worse than thick accounts would. Based on the findings of this thesis, and particularly those of Chapters III. and V., the half-solution they provide makes them vulnerable to the conceptual objection that so long as our conception of sovereignty remains territorial and state-bound, no other instances, smaller or larger, can be sovereign and thus legitimate. They run into the problem of the ultimate arbiter, that is, it is unclear what rules apply to whom in case of conflict; as argued in Chapter III., this makes the conceptualisation of legitimate authority impossible, along with its justification, which must rely on knowledge of the identity of the authority's subjects. Therefore, the “thinner” the account of the world state, the less promise it holds for solving the problem of illegitimate rule. In what follows, I will demonstrate the problem that,

in my view, all thin accounts of the world state face by reference to some of the “thickest” thin accounts proposed by some authors amongst those generally considered the most radically cosmopolitan.

One of the foremost is Australian philosopher Peter Singer. In *One World*, he draws attention to the effects of globalisation, especially growing global interdependence in a variety of domains, and refutes one by one all major proponents of parochial solidarity, with greater or lesser success. He too stops short of calling for a world state – not because of the plausibility objection, but based on a synthesis of prominent normative objections – instead arguing for some kind of vertical division of authority: “to rush into world federalism would be too risky, but we could accept the diminishing significance of national boundaries and take a pragmatic, step-by-step approach to greater global governance.” (200) Specifically, Singer argues that there is a strong case for global environmental and labour standards, proposing granting authority on this to the International Labor Organization, and even for the elimination of global poverty, for which purpose he believes a United Nations Economic and Social Security Council could be established.

That functional differentiation between domains of authority in the international sphere makes good sense, as does the implicit argument that certain domains need to be regulated at the international level, but regulation at lower levels, including the national one, are a better fit for other domains. Indeed, that conception is not far removed from the one I modestly propose in Chapter XI – or what the EU has operationalised, as I argued in Chapter V. What Singer does not seem to consider is that the proposition is at odds with the conceptual conditions in place for thinking about international politics. Although Singer does, of course, acknowledge that his

proposed system presupposes a weakening of “national” sovereignty, he does not problematise the fact that, for his account to be successful, an altogether different conception of sovereignty may be needed. If, as we have argued in previous chapters, sovereignty is a condition of legitimate authority inasmuch as it alone determines the jurisdiction of the authority, with respect to which authority can be conceptualised and justified, some such conception is needed. And if our arguments that the territorial principle of sovereignty therefore limits legitimate authority to states and commands that such authority be comprehensive, are sound, a different principle is needed. Without those considering these issues, Singer’s account fails on familiar conceptual grounds: the granting of legitimate political authority to international organisations is incompatible with the salient – though contingent – territorial conception of sovereignty.

States are territorially, and thus comprehensively, sovereign, and sovereignty cannot, by definition, be shared externally, because the consequent reopening of the ultimate arbiter problem – a lack of clarity about the jurisdiction of the authority – renders the authority impossible to justify. Therefore as long as the territorial conception of sovereignty remains salient, international organisations cannot be sovereign, thus they cannot bear legitimate authority. So Singer’s proposed international organisations would run into the same problem of illegitimate rule actually existing ones do.

Singaporean philosopher Kok-Chor Tan, another leading radical proponent of the cosmopolitan thesis, argues in *Justice without Borders* for the intuitively highly appealing claim that liberals everywhere should accept the cosmopolitan idea, given that equal moral standing is unattainable as long as national boundaries

persist. Yet even he believes that the idea of a world state has serious "practical and theoretical" shortcomings and instead argues, in no great detail, for the reform and democratisation of existing global institutions to drive cosmopolitan justice. (200)

The idea that global governance is possible without a global government is (beyond theoretical and practical difficulties) of course, to my understanding, a conceptual impossibility as long as we wish to be ruled by a legitimate authority: to do so, the ruling instance must be sovereign, which international institutions as we know them are plainly not, as I argued in Chapter V. Yet perhaps a more charitable reading of Tan is possible. By democratising global institutions, he may mean entrusting them with legitimacy deriving directly from citizens globally and arising as a result of some sort of democratic act that is global in scope. But if so, the argument runs into the plausibility problem discussed at some length in the previous subchapter: given the lack of an ethical basis or an institutional framework necessary for will formation, expression, or coordination, such a global democratic act is implausible. Or he may mean that by creating fairer, more democratic conditions in global organisations – for instance, balancing out the influence of the West and increasing access to the UN Security Council – states will be more incentivised, or at least less disincentivised, to submit to certain global authorities. That also appears little plausible, if as I believe Pogge is right, and states remain ultimately, first and foremost, interested in their own survival, irrespective of the conditions under which submission to a higher authority may be possible. Ultimately, Tan's account fails because, while approaching a thick account of the world state, he does not make the commitments such an account would necessarily have to.

At a deeper level, and more generally, it is unsurprising that thin accounts of the world state, espousing a “pragmatic” progress towards global government, allowing slow and gradual movement, should fail on their concepts. I have argued throughout this thesis that the global political system – and specifically its key building block, state sovereignty – are deeply ingrained in the concepts underlying the way we think about global politics. The link between territoriality (and thus comprehensiveness) and sovereignty (and thus authority) is contingent, but not something we can wish or pretend away. It is a link that must be revisited, with a clear alternative put forward, if the international political system based on sovereign states is to give way to something else. Short of that, with the territorial conception of sovereignty, and thus authority, remaining salient, the world state argument would need to be put forward in the thick version – though this is prone to the plausibility objection discussed in the previous subchapter.

(iii) Conclusions

Most writers in the cosmopolitan tradition share the core concern of this thesis: that economic integration and technological change produce actors of power that, unmatched by accountability mechanisms, are a source of illegitimate rule. From this analysis, they draw the same basic conclusion as this thesis: that the locus of authority needs to change, and states must no longer be the sole bearers of legitimate authority. The solution they propose is to move authority *upwards* from the state, to the regional and global level.

I have argued that, were this solution to work, it would need to be pursued to its logical conclusion – the establishment of a single, comprehensive global authority,

a world state. This would solve the problem of illegitimate rule arising out of the processes of globalisation and deterritorialisation, for the scope of both processes is planet Earth. However, my review of the cosmopolitan literature identified no such ‘thick’ account of a world state – and for good reason. Although conceptually and perhaps normatively sound, a single, all-powerful world state is empirically implausible. So much so, that the prospect of espousing the ‘thick’ account seems unappealing to all serious scholars in the tradition, even if their argument's normative basis does not exclude a ‘thick’ account, and, indeed, its thrust points towards one. Nonetheless, many writers assume, often implicitly, the contours of a thick account – precisely because nothing in the normative argument for a ‘thin’ account precludes articulation of a ‘thick’ account. As I have found, this account does not withstand the plausibility challenge – though a principled review free of status quo bias cannot argue it is unfeasible.

The bulk of the tradition therefore settles for half-measures, solutions on the way to a world state, but not quite reaching one. Indeed, all these would-be solutions revolve around empowering international institutions and creating new ones. On my reading, these cannot solve the problem of illegitimate rule, however. Territorially sovereign states cannot, as a conceptual matter, exist alongside other, larger instances, whether comprehensively ruling or otherwise, if those instances are to be legitimate authorities – such conceptions invariably run into the ultimate arbiter problem. In sum: the ‘thick’ account of the world state fails on the plausibility test, and the ‘thin’ account does not resolve the problem of illegitimate rule, suggesting that the problem cannot be resolved by simply increasing the size

of territorially sovereign authority to the theoretical maximum. We must therefore look further to see what other alternatives to the sovereign states system might exist.

X. Other Alternatives

We posited in Chapter VII. that as long as territorial sovereignty continues to dominate global politics, only a single global authority, a (thick) world state, could solve the problem of illegitimate rule that arises from the twin problems of globalisation and deterritorialisation. Chapter IX., which discussed world state theories, found this argument to be sound, but sustained that such thick world state theories do not exist in serious philosophy, with good reason – their vulnerability to the plausibility objection. Nonetheless, as we have established, scholars are well aware of the problem itself – that international economic and cultural integration challenges states’ exclusive political authority and, at a deeper level, that where power is non-national and often non-territorial, national and territorial authority appears arbitrary, or at least inadequate. It follows that alternatives to the territorial sovereignty model that do not argue for a world state (based on a thick or thin account) must exist, which is what this chapter of my thesis sets out to explore.

It finds that they both do and do not exist. They exist in the sense that there is a large, diffuse, varied body of literature which problematises territorially sovereign political authority, without arguing for the creation of or movement towards a world state. From Marx, to the English School, to certain cosmopolitans and back, the modalities of organising authority beyond states, but not in the framework of a world state, constitute a relatively popular avenue of inquiry in international political theory and empirical international relations. These accounts do not, however, provide a “third way” besides the status quo and the world state, or even differ substantively from world state theories. My inquiry in this chapter finds that these alternatives to the territorial sovereignty paradigm are, despite the authors’

best intentions, versions of world state theories, or imply a world state as an endpoint; or, where they do not, fail for independent reasons.

Given the size and diffuse nature of this literature, spanning several academic disciplines with hardly any communication between one another, I could not set myself the task of providing anything approaching a complete review of the relevant literature. As before in this thesis, I have therefore opted for analysing a handful of texts I believe to be seminal within the broad category the contours of which I have drawn. Specifically, I will analyse two phenomena: the Marxian “no-state” and “socialist state” theories, and “neo-mediaevalist” theories of porous and overlapping authorities. The Marxian account, I find, implies either the status quo, or anarchy after states, understood as instruments of class struggle, “wither away” as a consequence of the proletarian revolution. Neo-mediaevalist accounts, or accounts of the vertical division of authority, by contrast, are versions of the thin account of the world state: either they are pursued beyond the authors’ intentions, to the point where authority is divided within a single, global, sovereign unit, thus turned into a thick account of the world state, vulnerable to the plausibility objection, or they fail under the ultimate arbiter objection.

(i) *The Marxian theory*

Marx and Engels were not proponents of a world state or any other clear alternative to the status quo. They were first and foremost opponents of states as they exist in the plural, within a system of territorially sovereign states. The basis of their objection is most clearly articulated by Engels in his *Origin of the Family, Private Property, and the State*:

“As the state arose from the need to keep class antagonisms in check, but also arose in the thick of the fight between the classes, it is normally the state of the most powerful, economically ruling class, which by its means becomes also the politically ruling class, and so acquires new means of holding down and exploiting the oppressed class.”
(1962:93)

The state, then, is nothing but an instrument of the class struggle, always serving the powerful to oppress the less fortunate; to reward economic benefit with political benefit. What follows the state’s demise is discussed in many disparate musings by Marx and Engels, deeply anchored in Marxian thought, and the subject of lively debate among Marxist scholars. Bull draws the conclusion (1977:236) that Marx sees the state as transitory, to be swept away by proletarian revolution, but notes that both Marx and Engels occasionally seem to imply that separate units will still exist after the revolution. At least two possible – mutually exclusive – endpoints can be surmised from Marx and Engels’ writings on the subject: a situation in which there is no state (the “no-state theory”), and a situation in which states do exist, but are controlled by the proletariat (the “socialist state” theory).

The no-state theory is articulated the most clearly by Engels:

“When at last it [the state] becomes the real representative of the whole of society, it renders itself unnecessary. As soon as there is no longer any social class to be held in subjection; as soon as class rule, and the individual struggle for existence based upon our present anarchy in production,

with the collisions and excesses arising from these, are removed, nothing more remains to be repressed, and a special repressive force, a state, is no longer necessary. The first act by virtue of which the state really constitutes itself the representative of the whole of society—the taking possession of the means of production in the name of society—this is, at the same time, its last independent act as a state. State interference in social relations becomes, in one domain after another, superfluous, and then dies out of itself; the government of persons is replaced by the administration of things, and by the conduct of processes of production. The state is not "abolished". It dies out. This gives the measure of the value of the phrase "a free people's state", both as to its justifiable use at times by agitators, and as to its ultimate scientific insufficiency; and also of the demands of the so-called anarchists for the abolition of the state out of hand."

The state dies out, withers away; there is no longer a need for it, since there is no more oppression. *All* states die out, that is, at least all that exist in the plural, because they no longer fulfil their sole function in Marxian thought, "holding down and exploiting the oppressed class." It is worth noting the parallel with Hegel's belief – responding to Kant's cosmopolitan vision of an alliance of polities – that the state as such bears violence, because the state, and even a union of states, is "individual, and in individuality negation is essentially implied... [It] must create an opposition,

and so beget an enemy.” (Hegel 2001:259) The obvious objection is that, on that quasi-Hobbesian logic, it should be considered a virtue of states that they create peace within their jurisdiction – even if they provoke violence beyond it – where people as individuals, in absence of the state, would no doubt “beget an enemy” and bear violence. It follows that Hegel is problematising the plurality of states, rather than the state as such.

Still, this argument is trivial, as far as Hegel is concerned. Within the system of states, each state functions as an individual, and individuality implies negation and ultimately violence. But consider – as Hegel never did – that if the world’s inhabitants all lived in a single state, there would be no risk of such individuality, and thus of negation or violence; the state would be tantamount to a single collective, rather than one individual among many. The argument is less clear in relation to the Marxian conception. There is nothing in their critique of the state as a means of oppression that is limited to the status quo of many states; a single world state could plausibly also be used as a means of oppression. Note that Marx and Engels insist that they argue not for the abolition of the state, but for its withering away. Following this change, authority does not exist, either: a stateless communist society develops that no longer requires law, because private property in the means of production is no longer recognised; authority, then, is no longer required (as there is no law), and “the government of people gives way to the administration of things.” The no-state theory, then, calls for an end to states, though without calling for the state’s *abolition*.

The texts can, however, be read such that they do not conclude in the abolition of the system of territorially sovereign states. Based on the “socialist state reading”

(or, rather, revision) put forward by Richard Adamiak (1970), it is not the state which disappears, but the state as an instrument of political power, narrowly defined by Marx as class oppression: “nothing was said [in *The Communist Manifesto*] of the end of ‘public power’ now being wielded by the state; it merely loses its ‘political character,’ i.e., by definition, its class character.” (Ibid:4) Clearly, on this reading it would be mistaken to understand the withering away of the state as that of a (or the) locus of political authority; instead, it is merely “political power,” in the Marxian sense of class oppression, that withers away. The proletarian revolution thus produces a state where there is no more class oppression. This reading seems to be supported by Marx and Engels’ insistence, in *The Communist Manifesto*, that it is the “bourgeois state,” rather than the state as such, which victimises proletarians. (1848) It follows that, were the state to lose its bourgeois (i.e. political or class conflict-based character) thanks to transcendence of private ownership of the means of production, it could continue to exist.

Adamiak goes further in spelling out the implications of Marx and Engels’ thinking on the future of the state, stating that they mean that “an inverse ratio exists between the degree of political power [i.e. class oppression] and the scope of state ownership of the means of production.” (1970:7) The extension of state ownership to its logical maximum, until the state owns all means of production within its jurisdiction, is then the very point of Marx and Engels’ programme and a condition of the abolition of political power, understood as class oppression. The state is thus not a phenomenon to be disposed of – quite the contrary, it is the key means, the key permissive condition of what Marx and Engels identify as the primary objective. Adamiak helpfully explains that this remained true even when, some years after the

publication of the *Manifesto*, Marx and Engels espoused radical-sounding anti-state rhetoric in response to the growth of anarchism; beneath the slogans, the meanings remained unchanged. (Ibid:8-11) Armed with such knowledge of Marxian semantics, Engels' – still radical-sounding – pronouncements may then also be re-evaluated. He writes that the “proletariat seizes political power and turns the means of production in the first instance into state property. But, in doing this, it [...] abolishes also *the state as state*.” (1962:267; emphasis mine) On the socialist state reading, “state as a state” means something distinct from our understanding of the state: it means the state as an instrument of class oppression. The socialist state reading does not, then, offer an alternative to the sovereign states system; even if socialist states were not otherwise challenged by the processes of globalisation and deterritorialisation, their citizens would, in the contemporary context, be just as vulnerable to illegitimate rule as citizens in actually existing states.

This thesis agrees with Marx and Engels on the fundamental point that the state primarily exists to fulfil a *function*. To Marx and Engels, that function is class oppression for the capitalist state, and ownership of the means of production and the “administration of things” for the socialist state. Nonetheless, neither possible reading of Marx and Engels' view on the “withering away” of the state provides an answer to the problem this thesis is concerned with, that of illegitimate rule arising out of the growth of global and non-territorial power, and of political authority being bound by the salient, territorial conception of sovereignty. The no-state reading leads to a lack of authority, an end-condition with which the normative premises of this thesis are at odds. The socialist state reading, by contrast, offers no

alternative to the system of sovereign states as such, and relates entirely to the mode of states' internal organisation rather than the locus of authority.

(ii) *Neo-Mediaevalism*

It is a natural instinct of authors who have a problem with the territorial conception of sovereignty to return to the origin of that conception – and thus the origin of the concept of sovereignty itself – in search of an alternative. A natural alternative would be *something* like the system of authority which preceded that based on territorial sovereignty: the mediaeval system of “overlapping authority and multiple loyalty” (Bull 1977:245). This was a system whose (Christian) universalism, as we argued in Chapter II., fascinated Romantics some two centuries after its downfall – and which has continued to fascinate many until today (this author being no exception).

The idea that the system of authority based on territorial sovereignty could be replaced by a contemporary – secular – equivalent of Christendom was perhaps most clearly articulated by Hedley Bull in his classic, the *The Anarchical Society*:

“If modern states were to come to share their authority over their citizens, and their ability to command their loyalties, on the one hand with regional and world authorities, and on the other hand with sub-state or sub-national authorities, to such an extent that the concept of sovereignty ceased to be applicable, then a neo-mediaeval form of universal political order might be said to have emerged.” (1977:246)

Bull, then, draws a parallel between mediaeval princes' sharing of authority with the Holy Roman Emperor and the pope above, and simultaneously vassals beneath (though it is arguable whether feudal relations in [Western] Christendom constituted the sharing of authority), on the one hand, and on the other, potential sharing of sovereignty by states in the contemporary world with subnational and supranational units. He operationalises the idea thus:

“We might imagine, for example, that the government of the United Kingdom had to share its authority on the one hand with authorities in Scotland, Wales, Wessex and elsewhere, and on the other hand with a European authority in Brussels and world authorities in New York and Geneva, to such an extent that the notion of its supremacy over the territory and people of the United Kingdom had no force. We might imagine that the authorities in Scotland and Wales, as well as those in Brussels, New York and Geneva enjoyed standing as actors in world politics, recognised as having rights and duties in world law, conducting negotiations and perhaps able to command armed forces. We might imagine that the political loyalties of the inhabitants of, say, Glasgow, were so uncertain as between the authorities in Edinburgh, London, Brussels and New York that the government of the United Kingdom could not be assumed to enjoy any kind of primacy over the others, such as it possesses now.” (1977:246)

In this attempt to operationalise the neo-mediaeval idea, it appears that rather than a diffuse system of many authorities – with jurisdictions defined by something other than territory – Bull’s concern is with the status of the international organisations that emerged after the Second World War (perhaps especially with the European Communities, which Britain joined some four years before *The Anarchical Society*’s publication) and their relationship with the state (particularly, perhaps, one with a similarly complicated relationship with its then-recent imperial past as Britain’s). He is concerned with the possibility of recognising those international organisations (and subnational units) as in some way sovereign – that is, the vertical division of sovereignty, in much the same way as Pogge, with whom I enter into polemic below.

Bull makes the case that a neo-mediaeval order would “avoid the classic dangers” of the system based on territorial sovereignty, through its “structure of overlapping authorities and crisscrossing loyalties that hold all peoples together in a universal society”, while avoiding the concentration of power inherent in a world state – something the founder of the English School of international relations is obviously deeply suspicious of. (246) He ends his exposé on a note of doubt, however, expressing fear that the neo-mediaeval order could prove less orderly, and more violent, than the order of territorial sovereignty.

As Bull notes, the antecedent – the Western Christendom of the Middle Ages – suggests that may well be the case. But there is a deeper empirical problem with the neo-mediaeval idea. The essentially theocratic nature of authority, the idea that all authority derives from God, was not some marginal characteristic of mediaeval society we can theorise away; it was a key permissive condition of Christendom.

Faith was the glue that held “crisscrossing” authorities and loyalties together, bringing them together as a *system*. Trivially: Christendom’s universalism was, of course, bounded by Christianity. The jurisdiction of authority, the boundaries of the group of people subject to the authority’s directives was the community of faith itself. Less trivially, that group could be relatively neatly delineated geographically, with Christians concentrated in Europe and its environs – that is, Christendom. However, as I argued in Part One, the jurisdiction was not *necessarily* territorial – and that is theoretically significant. Given that the rise in the power of non-territorial instances was less acutely experienced when Bull published *The Anarchical Society* than it is today, one should not blame Bull for being trapped in the territorial framework and pondering the relationship between various levels of territorial authority, rather than the possibility of departing from it. However, his parallel’s power is limited by the failure to acknowledge that authority in mediaeval Christendom, being rooted in faith, was essentially non-territorial.

A “modern and secular counterpart” of Christendom, in the sense that many more layers of authority exist (and perhaps in that at least some are not territorial) may be possible. It may even be inevitable, but not without a principle determining what rules ultimately apply to whom – like faith in mediaeval Christendom, or territory in the modern world. As I argued in Part One, the absence of such a norm, a conception of sovereignty, precludes any authority; in Bull’s terms, this absence permits *anarchy*, but does not allow for *society*.

A similar, though perhaps more sophisticated, account is Pogge’s (1992). In an essay in which he outlines his institutional cosmopolitanism, he dismisses states’ sovereignty on normative grounds and proposes instead :

“...that governmental authority – or sovereignty – be widely dispersed in the vertical dimension. What we need is both centralization and decentralization, a kind of second-order decentralization away from the now dominant level of the state. Thus, persons should be citizens of, and govern themselves through, a number of political units of various sizes, without any one political unit being dominant and thus occupying the traditional role of the state. And their political allegiance and loyalties should be widely dispersed over these units: neighborhood, town, county, province, state, region, and the world at large.”

Like Bull, Pogge argues for authority to move from the state both ‘downwards,’ to subnational units, and ‘upwards,’ to supranational institutions. (1992:58) He begins his argument with a defence of the vertical division of sovereignty against the objection I hold, that sovereignty cannot be limited. His defence is simple: the history of liberal democracy shows that sovereignty can indeed be divided – within states. To demonstrate the empirical possibility of horizontal division – that “what cannot work in theory works quite well in practice” (Ibid:59) – he points to the division of the branches of government. To demonstrate the empirical possibility of vertical division, he points to federal states. Yet what Pogge fails to show is that sovereignty can be limited from outside the jurisdiction of the sovereign authority. My argument (in Chapter II.) is that sovereignty can be shared within, but not limited from outside of, its jurisdiction, since its function – determining what rule ultimately applies to whom – then becomes lost, preventing justification of

authority. My argument (in Chapter V.) is that international organisations are not properly sovereign, and therefore do not have legitimate authority. If those stand, the vertical division argument fails.

Nonetheless, Pogge makes a series of convincing normative arguments for the vertical division of sovereignty. Central to his thesis is, of course, the belief that such conditions would limit tension and war – an eminently plausible claim, if we accept the premise that larger units, units ‘higher up the chain’ would pool the interests of the people of a number of states *within the same domains* and have greater power than smaller units. He further claims that the vertical division of sovereignty would reduce states’ oppression of their citizens, with both supervising higher and equal-level authorities acting as checks and balances on each other – again plausible, assuming that larger units have authority within the same domains as smaller units. That assumption, however, amounts to the assumption that authorities at various levels are comprehensive, which is difficult to make sense of conceptually. If my analysis of the concepts of sovereignty and legitimate authority in Chapters II. and III. are not unsound, this would mean that several authorities are final within the same domain – an obvious challenge to the ultimate arbiter problem and the justifiability of authority. Such a set-up would in practice likely lead to larger units exercising sovereign authority over smaller units – and consequently, smaller units having no sovereign authority of their own. But that does not seem to be what Pogge wants to achieve; his focus is firmly on the existence of a plurality of authorities at a plurality of levels.

Indeed, the implication that larger – global, regional – units are more powerful than national units within those smaller units’ own territorial domains would appear to

run counter to the thrust of Pogge's own argument, which arguably bears the imprint of the European Union's subsidiarity principle, the idea that each governmental task should be performed at the level at which it can be most efficiently performed, postulating that no unit should achieve dominance in general or over another. Such non-domination appears to be a condition of peace in the vertical division model inasmuch as, if smaller units feel their autonomy is encroached upon, they may be inclined to revolt. It also appears to be necessary for units to be able to act as checks and balances on each other; if larger units can force their will upon smaller units, what authority can check and balance against them? Yet if non-domination was ensured, larger units would be unable to exercise power over smaller units, rendering them incapable of forcing smaller units to cease oppression of their citizens. Ultimately, non-domination would be at odds with Pogge's apparent Hegelian instinct that states' autonomy is the root cause of war, which points towards domination by other instances (or towards universal anarchy – but that is also not Pogge's intention).

Pogge further argues, in support of the vertical division of authority, that such a set-up would drive global economic justice, for instance through the introduction of a global tax on natural resources to equalise differences in endowment. (Ibid:62) Yet as I argued in Chapters V. and VI., territorial authorities are hard put to regulate agents of power within the global economy due to those agents' high levels of physical mobility ability to operate virtually, and, for many, their tenuous relationship to territory itself. (Pogge does allude to the issue in the same essay: in a footnote on 'patriotic' allegiances, he allows that people may identify, beyond geographic units, with such "geographically dispersed units as the Anglican church,

the World Trade Union Movement, PEN, or Amnesty International.” Pursued differently, I believe the study of identity can probably produce a strong argument for non-territorial authorities. As articulated, however, this aside is unhelpful, as it conflates *political* identity with other kinds, rendering any conclusions regarding *political* authority impossible.) Still, Pogge is correct that larger units may solve some problems: they may successfully pursue the cause of resource justice or economic justice more broadly within a narrow geographic and functional domain. But if we accept – as Pogge certainly does – that the scope of justice, and specifically resource- and economic justice, is global, then such an endeavour could well backfire by creating new inequalities. While those domains in which power is global but largely territorial would lend themselves to easy regulation, those domains in which power is non-territorial would not. For instance, while minerals firms active in the (territorial) domain under the authority’s control could be forced to comply with new regulation, social media companies could not be regulated in the same way: a new divide, impossible to justify, would emerge between people more affected by the former and people more affected by the latter. It is my contention that, without running the risk of such unintended consequences, this complex of problems can only be solved in one of two ways: through a world state – which Pogge rejects – or by moving away from the territorial and towards a functional conception of sovereignty, allowing for the emergence of legitimate authorities with functionally delineated jurisdictions.

Pogge certainly appears to be moving towards this as well, making the strong argument that a supranational authority is necessary to halt the world’s ecological degradation. (Ibid:63) This is obviously specific to a single functional domain of

authority, environmental protection, although Pogge is not explicit about that (to the contrary: as seen above, his arguments mostly appear to assume that authorities at various levels somehow retain their comprehensiveness). Neither does he state that the authority in charge of the matter should be global in scope, though that is perhaps a fair assumption. However, an authority that is both global and comprehensive would be tantamount to a world state – against which Pogge levels, in Rawlsian fashion, that it poses significant risks of oppression, as we saw in Chapter IX.

Only a small (though crucial) step is, I believe, missing for Pogge's set-up to work: a non-comprehensive, functional conception of sovereignty that allows functional authorities at both the state and sub- and supra-state levels to exercise legitimate authority and coexist in peace. Sovereignty, the norm vesting final authority in the ruler and determining the boundaries of the jurisdiction, is necessary for authority to be possible. As argued in Chapter II, sovereign authority can be divided within its jurisdiction but not limited from the outside, if it is to ensure that an ultimate arbiter is in place. To solve the problem posed by non-territorial power actors, either a world state or, if that is not plausible or desirable, functionally 'specialised' authorities are needed to rule over matters affecting a significant part or all of humanity.

(iii) Conclusions

This chapter's findings are consistent with the assumptions made earlier in this thesis; in other words, they correspond to the findings that appear to follow from the conceptual observations made. They lend themselves to easy summary. I have

surveyed alternatives to the status quo of the system of territorially sovereign states that do not argue for a world state or for movement towards a world state. None of these provide a solution to the problem of illegitimate rule arising out of the combination of the growth of globalisation and deterritorialisation and the confinement of legitimate, that is, sovereign, authority to the state.

The alternatives surveyed either appear to reject authority itself – like the no-state reading of Marx and Engels’ “withering away of the state” theory. Or, much like the attempts to provide a theoretical basis for international institutions’ authority surveyed in Chapter V, they fail under the ultimate arbiter objection – with Pogge’s case coming closer to a solution than other “vertical division” or neo-mediaevalist theories. The conceptual framework for such an understanding is not in place, risking confusion regarding jurisdictions (the identities of the ruler and the ruled) since states alone are properly sovereign, per the salient understanding of sovereignty. Other suggested alternatives, like the socialist state understanding of Marx and Engels, fail because they simply fail to suggest an alternative in the required sense.

This thesis could not, of course, aim for a complete review of alternatives to the states system and the world state, and it is possible that alternatives which avoid all of the above fallacies exist. Nonetheless, by analysing three seminal texts from vastly different traditions and demonstrating that each of them – or at least those which do offer an alternative – fail under either the plausibility objection or the ultimate arbiter objection, I hope to have substantiated at least a plausible claim to the general truth of the key argument of this thesis. To reiterate, that argument runs thus: sovereignty, in its contingent but salient conception as territorial, locks

legitimate political authority to territorial states, but those states' power is waning in the face of globalisation and deterritorialisation, resulting in illegitimate rule, a moral problem of the first order. To mitigate that problem, its root cause, the link between sovereignty and territoriality, needs to be eliminated.

XI. Functional Sovereignty

The key argument of this thesis rests on the conceptual premises established in Chapters II. and III.: that sovereignty is a condition of legitimate political authority inasmuch as sovereignty alone provides an answer to the ultimate arbiter challenge, by vesting final authority in the ruler and determining what rule applies to whom in case of conflict. Thus we have established that the content and function of sovereignty are essential for authority to be possible. Its contingent meanings – territoriality, and its consequence, comprehensiveness – are just that, contingent, and therefore not essential. We have also seen that illegitimate rule is caused by globalisation and deterritorialisation, because the rise of global and non-territorial power is at odds with the territorial nature of sovereignty, and therefore of legitimate authority. We have, thus, seen that it is this territorial link that we must challenge. In the previous chapters, we saw that alternatives to the system of global politics that do not problematise territoriality – whether in the form of a world state, a proletarian revolution, or a vertical division of authority – are either implausible, or simply an insufficient solution to the problem.

What, then, are the available alternatives to territoriality? How might the jurisdiction of authorities that make sense for our age – the jurisdiction of the powers that *actually exist* – be defined? In what kind of sovereignty might the authority of such instances be grounded – supposing that the wish to eliminate illegitimate rule and provide for the legitimacy of political power is sufficiently broadly shared to create an irresistible momentum?

I argued in Chapter V. that the European Union provides a blueprint. The EU and its member states performed a – muted, but still material – shift from a territorial to

a functional conception of sovereignty. Domains of sovereign authority, or in EU jargon, competences, are split between the EU and the member states such that in areas in which the EU exercises exclusive competence, it alone is sovereign, meaning that it alone exercises final political authority, and its directives bind member states and their citizens directly. EU sovereignty – and by extension, that of EU member states – is determined by *function*, the functional domains (customs, fisheries, and so on) the EU exercises authority over. Function is the defining characteristic of these jurisdictions, although territory continues to play a secondary role by setting a limit to the EU's and member states' claims to authority. I argued that although EU sovereignty is limited to a small number of areas, the shift in the conception of sovereignty is full. Member states are not sovereign in the domains in which they have transferred sovereignty to the EU, so they are no longer comprehensively sovereign over their territories. As we saw in Chapter II, there can be only one dominant principle according to which jurisdictions are determined, and territorial sovereignty, where territory is the defining characteristic of jurisdictions, requires comprehensiveness. EU member states are therefore no longer territorially, but functionally sovereign – though they do retain sovereignty over the majority of functional domains, including many where globalisation and deterritorialisation are challenging their power. I will now attempt to show how such a model, pursued much more ambitiously, may be inevitable on a global level.

Consider that global and non-territorial powers span a large variety of spheres of human interest – in trade, entertainment, and security, to name only a few. Regulation in each of them requires a different instance and affects a different group of subjects. Consider that the United Nations' World Trade Organisation (WTO)

decides on trade rules and tariffs globally, and corporations everywhere on the globe are subject to their directives, or that a Global Social Media Regulatory Committee (GSMRC) decides on the rules governing social media networks, and providers as well as users worldwide are subject to those rules. Or that the United Nations Security Council (UNSC) alone grants mandates for war, and state and non-state actors are subject to their authority globally. Clearly, the jurisdiction of each of these instances is distinct – although, naturally, they overlap in the sense that each individual and entity is subject to multiple instances’ edicts, like Spanish fishermen are subject to EU edicts in their fishing, but Spanish edicts in their education. To be properly legitimate, as we have argued in Chapter V., such authorities would need to be sovereign – which they cannot be, according to the territorial conception of sovereignty. What defines these instances and distinguishes them from one another is their *function*: the (non-geographic, issue-) *area* over which they rule. It is that area, then, that *function*, which defines their jurisdiction as an empirical matter. As they gain traction – as more power goes global, offshore, and online – it is that functional jurisdiction in which their legitimacy will be grounded. *They will be functionally sovereign.*

It follows from the arguments made in this thesis so far that *an* alternative to the territorial conception of sovereignty is needed; that the contingent link between territoriality and sovereignty has been broken, and territory as the defining principle of sovereignty will be replaced by *something*. It follows that sovereignty is necessary for authority to withstand the ultimate arbiter challenge, and that therefore *some* kind of sovereignty is needed. It does not automatically follow, however, that that alternative, that *something*, must be functional sovereignty. Yet

no plausible or desirable alternatives exist as long as the normative footing from which enquiries are made are consistent with the demands of democracy. As an empirical matter, the group of individuals and entities affected by a non-territorial power is defined only by that characteristic – being affected by that power. Beyond basic human qualities, users of social media platforms necessarily share only that characteristic. Those who trade in cryptocurrencies and non-fungible tokens necessarily share only that. It is therefore theoretically impossible to understand who constitutes the group of those directly affected by a certain non-territorial power without reference to the fact they are directly affected by it. Democracy demands that those directly affected have an equal say, an equal level of control, over the instance. If we are to think of these instances as legitimate authorities, therefore, their jurisdiction must be defined by reference to the individuals and entities their edicts directly affect. *Their sovereignty must be functional.*

Functional sovereignty delineates the group of an authority's subjects based on the authority's function: those individuals who, as an empirical matter – given their attributes, whether acquired through choice or not, such as domicile, occupation, and lifestyle – are subject to the authority, form the group that is the source of the authority's legitimacy, like EU fishermen are subject to EU authority in their fishing. Functional sovereignty is by definition *not comprehensive*: it extends only to the given functional area, not to the totality of areas.

An important note to make is that, as discussed earlier in this thesis, an increasing number of instances exercising an increasing amount of power are global and non-territorial, and such private power to an increasing extent subverts, undercuts, and replaces public authority. However, it does not, and will never, rule over *all* areas

of social life. Of the areas where states retain dominance, the theoretically most significant one is violence. Although, as discussed at some length in Part Two, an increasing number of private and non-state actors, from armies for hire to terrorist organisations, challenge the state's monopoly on violence – its key constitutive characteristic in Weberian thought – empirically, the state retains dominance and will likely continue to do so. This means that states, like other human associations, may be subject to global and non-territorial authorities and be bound to obey commands issued by such authorities. It also means that states must remain the *par excellence* enforcers of commands, independently of the origin of those commands (as long as that origin is a legitimate authority). In other words, under functional sovereignty, the *power* to enforce remains with states, though the authority to bind may not. Such a state of affairs is not uncommon under territorial sovereignty, with, for example, federally-organised states sharing the monopoly on violence with their constituent subjects, to varying degrees. This is unsurprising and not in itself a challenge to those states' sovereignty since, as I argue in Chapter II., sovereignty can be shared internally but not limited from the outside. Nor does this empirical fact pose a problem to the operationalisation of functional sovereignty, where it is the sovereign right of all authorities, including states, to share the power entrusted to them the way they see fit.

Certain areas, such as primary care, early years education, or local transport infrastructure, are best regulated at the local or national level from a practical perspective and, as an empirical matter, no *de facto* authority is ever likely to extend control over them. In such areas, states – conceived of as a whole, comprising local and central levels of government – do and will likely remain the salient authorities.

This does not mean that they retain territorial sovereignty: their authority, like that of EU member states, is no longer afforded to them by territorial but by functional sovereignty; which may nonetheless define jurisdictions as, for example, households using or requiring primary care, early years education, and public transport in a given territory. The territorial principle takes a secondary role: states' sovereignty remains territorially bounded in the sense that states are sovereign in the functional domains entrusted to them within their territory only. As a consequence, their authority is not comprehensive, but extends only to those areas where it remains the salient authority. Naturally, while territorial sovereignty is necessarily comprehensive, as argued in Chapter II., functional sovereignty does not prevent functions being carved up on a territorial basis, as long as this is practical.

(i) Operationalising functional sovereignty

As the reader will have surely noted, my argument for functional sovereignty is predictive. It argues that, within the conditions of globalisation and deterritorialisation, movement toward functional sovereignty is *the* way to guarantee that the instances which exercise power over us bear legitimacy. As long as this is deemed morally desirable by a sufficiently large group of people, movement toward functional sovereignty is inevitable.

Functional sovereignty thus clears away the key obstacle on the path to the restoration of legitimate rule. As powers have migrated away from the state, but legitimacy remained stuck there – because of the territorial conception of sovereignty – illegitimate rule emerged. But through the undoing of the contingent

link between sovereignty and territoriality, and its replacement with a link between sovereignty and function, the conceptual impossibility of legitimate rule in the circumstances of globalisation and deterritorialisation fades away. However, this does not mean that global and non-territorial authorities will be legitimate; sovereignty is a necessary but insufficient condition of legitimacy, as we have seen in Part One. Normative questions about political legitimacy – treatments of why we have a duty to obey the directives of an authority – follow once sovereignty is established and the relevant jurisdiction has thus been designated. As discussed in Chapter III., whether we seek to justify the authority's right to coerce its subjects to comply with directives or the relationship it creates among its subjects, we find that, before we can answer, we need a norm which identifies the subjects; we need sovereignty. Conceptualising sovereignty so as to allow for legitimate authority in the conditions of globalisation and deterritorialisation is the task set before this thesis, and that task has hopefully been achieved by now. Yet an easy objection to the theory of functional sovereignty comes from its operationalisation. How can a political authority's legitimacy be assured where the group of the authority's subjects is large, incongruous, and geographically dispersed? Operationalising the concept of functional sovereignty – providing a fully-fledged theory of the actual legitimacy of functionally sovereign authorities – is beyond the scope of this thesis, the key concern of which was to clear away the conceptual obstacles to the restoration of legitimate rule in all areas of social life. Nonetheless, to pre-empt that most obvious objection, I offer a few thoughts on this matter below.

It is worth highlighting at the outset of this effort that while the EU is a blueprint indicating how functional sovereignty can determine jurisdictions and vest

legitimate authority in an instance within a functional domain, it is not a good analogy, much less a blueprint, for operationalising the functional conception of sovereignty. Clearly, this is because the EU is a geographically contiguous bloc. Functional sovereignty in the EU's case is a result of bargaining – perhaps supporting my argument that movement towards it is inevitable globally – but was never the objective. Indeed, the objective for many of the EU's architects was a territorially sovereign, unitary federal state.

Democracy – an order ensuring an equal say over authoritative directives for each of the authority's subjects – is widely accepted as a key substantive condition of an authority's legitimacy, I argued in Chapter III. It therefore makes sense to consider how democracy may be feasible within a functional jurisdiction. It is unclear whether the members of jurisdictions that are global in scope and organised along functional lines can be meaningfully guaranteed an equal say in the directives of the authorities that apply to them in various functional spheres. One could argue that technical solutions are likely to exist, or at least be possible, to organise elections in a geographically unconsolidated community. Yet this argument is vulnerable to at least two further objections: (a) the public deliberation argument, and (b) the citizens' commitment argument. The public deliberation argument holds that for democracy to hold, participation must be substantive: citizens must have the opportunity to publicly deliberate the authority's choices among themselves. In other words, as I have argued previously, democratic decision-making presupposes public deliberation within a public sphere appropriate to the jurisdiction in question. However, it is empirically at the very least uncertain whether such a public sphere can emerge within a jurisdiction divided by geography, language, and a number of

other contingent characteristics. The citizens' commitment argument holds that in order for democratic legitimacy to hold, a large share of the eligible community must participate in the deliberation and the decisionmaking (the elections). Given that under the system of functional sovereignty, a large number of functional authorities will apply to individuals (in different spheres of their lives), it may be unreasonable to expect from citizens to participate substantively in all of them. Facing these two objections, the argument for direct participation of members of functional jurisdictions collapses.

How, then, can sovereignty be transferred? As things stand, only states are properly (that is, territorially) sovereign; only in the case of states is the group of an authority's subjects clearly delineated. In order to grant sovereignty to functional authorities, subjects – ultimately, individuals – need to directly express their wish to do so. The only arena within which this is currently possible is the state. A state-level referendum, asserting citizens' acceptance of the authority of a functional instance – say, the GSMRC – within a certain functional domain would be sufficient. This approach offers a solution to the question regarding subjects' control over the authority, too. Citizens may empower their representatives in currently-existing, territorial authorities to exercise their democratic rights within each functional authority's decision-making bodies. For instance, the Austrian people could vote in a referendum to accept the GSMRC's authority on matters of social media regulation, and instruct their government to represent them in the GSMRC's decision-making bodies. Such a legitimising democratic act could be repeated globally with regard to each global and/or non-territorial instance. This may, again, attract the challenge from citizens' commitment, however. Empirically,

there is reason to suspect that eligibility to vote frequently decreases turnout; some have interpreted the Swiss experience with frequent cantonal and national referenda that way. (Jackson 1987) If we cannot expect people to turn out to vote on the transfer of sovereignty to supra-state, non-territorially sovereign, authorities, this route to legitimacy must be dropped. It is, of course, possible to imagine that citizens issue, by means of a referendum, an authorisation for several instances at once. This may ease the problem but does not solve it: globalisation and deterritorialisation are dynamic phenomena, affecting ever more areas of human life, meaning that such instances are likely to be born relatively frequently, always requiring a democratic authorisation from the entire world's population. A further, familiar objection from democratic theory is the problem of future generations, the idea that the consent of a founding generation says nothing about the consent of following generations, because only in special circumstances can the consent of one bind the other. (Hume 1752, Simmons 1979:60) A further problem with the referendum route is that of non-democratic states. It is implausible to suggest that authoritarian countries, to the political culture of which – free – referenda are alien, could hop on the democratic bandwagon and either democratise or exercise democracy in this matter alone. Taken together, these objections are likely fatal to the referendum route of sovereignty transfer and legitimacy, meaning that another possibility must be considered.

Actually existing territorial states are empowered by their citizens to conclude international agreements, although many constitutions require a referendum for entering into certain international agreements. It is possible to imagine citizens granting state governments the right to enter into the jurisdiction of functional

instances on their behalf; this could happen by means of a referendum on, for instance, a constitutional amendment to this effect. Citizens could then grant their consent to functional authorities through their representatives; the democratic legitimacy of functionally sovereign authorities could be grounded in citizens' acquiescence through their governments or parliaments. Similarly, functional instances could be controlled and held to account through state governments. State governments would oversee functional authorities' governance and, where needed, hold the authorities to account. States could exercise their citizens' democratic rights, voting on their behalf within the decision-making bodies of each functional authority. In short, functional sovereignty could be operationalised through a blanket empowerment of national governments to consent, on behalf of their citizens, to the functionally sovereign authority of new bodies.

One possible objection to such a route is, in the vein of Pogge, that since states are primarily interested in their own survival, they are in general disinterested in submission to another authority – and of course in the domains in which they are sovereign, functionally sovereign authorities would not only bind states as well, but also and rely on them for the enforcement of their directives. Two considerations refute this challenge, however. First, governments, even authoritarian governments, are vulnerable in this regard as in any other to the pressure of their citizens. Although, as generally stable structures, they may withstand significant pressure over extended periods, their resilience is not infinite. Second, just as importantly, the transfer of sovereignty in some areas to functionally sovereign instances is not a blanket submission to a higher authority, as in the case of a world state of the kind Pogge considers. It is the resignation of authority in domains in which state

governments are at any rate powerless to act, a fact of which they are conscious. Arguably, state governments also have an interest in it: their *sociological* legitimacy may be increased by being seen to solve a moral problem of the first order.

What happens if some states still do not relinquish sovereignty to functional authorities? In short, nothing. The transition from territorial to functional sovereignty is, in any case, likely to be gradual. If, within the space of a decade or so, most states transfer sovereignty in the domain of social media regulation to the GSMRC, but some renegades do not, their citizens will be no more (and no less) harmed by illegitimate rule than they are today. Dissenting social media companies could certainly, in this case, relocate to renegade states, but the GSMRC's inevitable response to this would be a severe deterrent if a sufficient number of sufficiently large states had transferred sovereignty to the GSMRC. It may take a long time for some states to come on board – but given the considerations above, the eventual move is inevitable.

What happens if states do transfer sovereignty to functional authorities, but then fail to enforce their directives? If, say, Ireland had transferred sovereignty in the domain of social media regulation to the GSMRC, and the GSMRC had ordered Facebook to block Russian propaganda channels, but Ireland – as a result of a backroom deal with Facebook – did not enforce the order? Such non-compliance would in effect render the transfer of sovereignty meaningless. If states can overrule the functional authority in the domain in which they have transferred sovereignty, states have in fact retained that sovereignty. This is therefore just another version of the hypothetical objection from Pogge I refuted above, asking why governments would submit to another authority. The answers are the same, too. One, popular

pressure can force governments to enforce the directives they otherwise refuse to enforce. Two, it is in state governments' interest to comply, because it allows them to solve a problem. Indeed, simply by refusing to enforce the functional authority's directives, states can hamper rule over the domain – but by no means become able to rule over it themselves.

A further possible challenge is that, whether the transfer of sovereignty takes place through state governments or national referenda, although including all of those who are subject to the edicts of the functional instance in question, it would also include those who are not. Put simply, by including everyone in the legitimising act, the consent of the functional authority's actual subjects – those on whom the authority's legitimacy rests – would be diluted. This is indeed a problem, and it means that the democratic authorisation granted to functionally sovereign instances is not unfettered. It is, however, the only way: the group of individuals directly affected by the directives of a functional instance cannot be defined *ex ante* for two reasons. One, those directly affected by a *power* can only be identified *ex post*, once the effect has occurred; we do not know who bears the consequences of a decision of a social media platform or a crypto platform until the decision is actually made and its consequences are actually felt. Two, the objection from future generations holds here, too: even if the circle of those affected by the instance in question could be determined and they could without interference grant authorisation to the instance, the same would not hold for “future generations,” that is, those who begin to be directly affected by the power in question at a later point. From these later individuals' perspective, the power wielded by the instance in question would be arbitrary, without democratic legitimacy. However, by granting authorisation to,

and governing functional instances through, state governments the functional authorities' current and future subjects could grant authorisation to control functional authorities, and ultimately revoke authorisation from them.

(ii) Conclusions

The problem diagnosed through conceptual analysis in Part One and theoretical analysis in Part Two of this thesis requires the delinking of sovereignty from territoriality. Chapters IX. and X. have found that neither world state theories nor other existing alternatives perform that task. And although this thesis is primarily concerned with diagnosing the problem, in the hope of paving the way for others to navigate out of the sovereignty conundrum it exposes, this closing chapter has attempted to sketch the contours of the most likely solution.

Specifically, it has argued that movement toward a functional, rather than territorial, principle of sovereignty is inevitable. Since power is increasingly delinked from states, and from territory in general, another principle for delineating the subjects of an authority needs to be found, and no plausible principle other than the functional exists. Functional sovereignty means that authorities are not comprehensive and they are final only in their functional domain, with their jurisdictions encompassing those who are directly affected by the directives they issue, that is, by the phenomena they rule over; those who have a stake in the domain relevant to them. Social media users and companies are subject to the social media authority, cryptocurrency traders and platforms are subject to the virtual economy authority, and so on; everyone is subject to the climate authority and the humanitarian intervention authority. National authorities retain final authority in

those domains where their rule is most practical – where they retain sufficient power. That includes the monopoly on violence, and thus the power to enforce. National governments thus themselves become functional authorities in some domains, and subject to the directives of other functional authorities, and their enforcers, in others.

This chapter has also offered some thoughts towards the operationalisation of the concept of functional sovereignty. Finding other possible routes lacking, it has argued that the best way to transfer sovereignty from states to functional authorities is through a blanket authorisation of state governments by citizens to enter into and govern functional authorities; though not unfettered, this route would allow sufficient democratic legitimacy to functional authorities.

Closing Remarks

This thesis has been concerned with what it argued is a moral problem of the first order: the problem of illegitimate rule that arising from the mismatch between legitimate authority being locked to states, and globalisation and deterritorialisation driving power away from those states, and away from territory in general. Its analysis of the concept of sovereignty found that its function is the resolution of the ultimate arbiter problem through determination of the identities of ruler and ruled, delineating the jurisdiction of authorities. Its content is final authority within a jurisdiction. Both of these are necessary conditions of legitimate political (or public) authority, the thesis has argued. But sovereignty is also contingently linked to territoriality. Sovereign authority, in its salient understanding, is linked to the principle of territoriality, which commands that jurisdictions be determined territorially. Since territory determines jurisdictions, authority is comprehensive, extending to all domains of social life within the jurisdiction. It is that contingent link between sovereignty and territoriality which must be eliminated if the problem of illegitimate rule is to be solved.

The thesis has looked at illegitimate rule in some detail. It has analysed globalisation, arguing that it causes a mismatch of sovereignty with territorial states as they are; it has called this the displaced authority problem. It has analysed deterritorialisation, the emergence of non-territorial powers subverting, undercutting, and in some cases replacing public authorities, finding that it causes a mismatch of sovereignty with territorial states as such; it has called this the misplaced authority problem. The thesis has contended that globalisation and deterritorialisation together drive illegitimate rule – rule by actors and phenomena

larger than the state or not territorial at all – to an increasing extent and over an increasing number of people. It has illustrated this point by reference to the cases of transnational capital and of social media.

Having thus set out the problem, the thesis looked at possible solutions. It found that the most promising solution – a world state ruling over all of humanity – was implausible (though not unfeasible). It found that other solutions advanced within the cosmopolitan tradition and beyond either did not resolve the problem or were simply arguments in support of the legitimacy of international organisations. This thesis, while sharing the desire for international organisations to wield legitimate authority, sought to show that this is impossible without first revisiting the link between sovereignty and territoriality.

Finally, this work argued that, in light of the foregoing, a movement toward functional sovereignty – jurisdictions glued together by the fact that they are directly affected by the phenomena within a functional authority's domain – is inevitable, and a muted and partial movement in that direction has already begun in the shape of the European Union (though not by design). States will retain authority in some domains, but grant authority to functional, non-territorial, instances in others – and they will enforce the directives of functional authorities as their own. The thesis has also offered some thoughts on the operationalisation of the concept of functional sovereignty, suggesting that state governments be authorised to transfer sovereignty to functional instances in some domains, and to control them and hold them to account.

To briefly recapitulate, the argument of the thesis runs thus.

P1. The source of an authority's legitimacy is its jurisdiction (the group of those subject to the authority).

P2. The jurisdiction of an authority is determined by sovereignty alone.

C1. (from P1, P2) Sovereignty is a condition of legitimate political authority.

P3. As a contingent matter, the salient conception of sovereignty is territorial.

C2. (from C1 and P3) As a contingent matter, all legitimate political authority is territorial.

P4. As a contingent matter, states are the territorial political authorities.

C3. (from C2 and P4) As a contingent matter, all legitimate authority is borne by states.

P5. Globalisation drives the rise of private power that is beyond the purview of states as currently constituted.

P6. Deterritorialisation drives the rise of private power that is beyond the purview of territorial authorities as such.

C4. (from C2, C3, P5, P6) An increasing amount of rule is illegitimate.

C5. (from C3, P5, P6, C4) A world state ruling over all of humanity would solve the problem of illegitimate rule.

P7. A world state is implausible.

P8. Other solutions to illegitimate rule, while sovereignty is conceptualised as territorial, do not exist.

C6. (from C1, C2, C3, P5, P6, C4, C5, P7, P8) To address illegitimate rule, sovereignty must be conceptualised to allow for legitimate authority beyond states and beyond territory.

C7. (from P3, C6) To address illegitimate rule, sovereignty must conceptualised as non-territorial.

P9. Democracy requires that all those directly affected by an authority have an equal say in its directives.

P10. The group of those affected by global and non-territorial powers is determined by those powers' function alone.

C8. (from P1, P2, C7, P9, P10) Global and non-territorial authorities must be functionally sovereign.

The aim of this thesis has been to show that “[*territorial*] sovereignty is the doctrine of a period that has passed;” to convincingly argue that (1) states remain the sole loci of sovereign authority, (2) present conditions have created a migration of power away from states and, more broadly, territory, resulting in a moral problem, and that therefore (3) sovereignty must be conceptualised in a way other than territorial. It is my hope that the thesis has gone some way towards achieving those goals. The “political” objective of this thesis – the public good – will then have been served, by laying the foundations for a fully-fledged account of functional (or other non-

territorial if I am wrong and such are possible) accounts of sovereignty. It will have been served by providing a conceptual toolbox for understanding legitimate authority in contemporary global politics. And thereby this thesis will, hopefully, have contributed, in ever so minor a way, to the expansion of legitimate rule globally.

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