CHAPTER FOUR

SOVEREIGNTY

(1) MEANINGS AND DEFINITIONS OF SOVEREIGNTY

The foundation of modern democracy is based on the concept of sovereignty especially popular sovereignty. ‘The idea of sovereignty is integrally bound up with the most fundamental concept of modern politics such as freedom and democracy’. The basic principle of democracy is that the ultimate authority resides in the mass and this is what popular sovereignty too stresses upon. Bryce considers it as “… the basis and watchword of democracy.”

Sovereignty is an essential characteristic of a state. The state is made of four basic components namely ‘population’, ‘territory’, ‘government’ and ‘sovereignty’. Sovereignty forms an essential mark of statehood and it is an indispensable component of the state. J.W.Garner defines the state as:

“ … a community of persons more or less numerous, permanently occupying a definite portion of a territory, independent or nearly so of external control and possessing an organized government to which the great body of inhabitants render habitual obedience.”

Sovereignty, an important part of the state, may exist in a single person or in a group which prevents the state from disintegration and helps to keep all parts of the state together through obedience or use of power.

Sovereignty as a term has its origin in the Latin word ‘Superanus’ meaning supreme. The word itself implies that the state enjoys supreme power over its citizens and has authority to enforce obedience to its laws and
regulations. This is a sovereign power of a state which provides it the power to do things according to its wishes or as Jellinek defines it:

“… that characteristic of the state in virtue of which it cannot be legally bound except by its own will or limited by any other power than itself.”

Sovereignty and the sovereign have been variously defined by many scholars and political thinkers. W.A. Dunning, defines a sovereign in the following words:

By the sovereign is meant that individual or assembly who, by the terms of the contract on which the commonwealth rests, is authorized to will in the stead of every party to the contract, for the end of a peaceful life.

According to Jean Bodin defines sovereignty in following words, sovereignty is the supreme power of the state over citizens and subjects, unrestrained by law. Sir William Blackstone (1723-1780) considers sovereignty to be, “… the supreme, irresistible, absolute, uncontrolled authority in which the jura summi imperii reside”.

Again, Leon Duguit (1859-1928) defines sovereignty as the, “… commanding power of the state; it is the will of the nation organized in the state; it is a right to give unconditional orders to all individuals in the territory of the state.”

Pollock in ‘History of the Science of Politics’ states:

Sovereignty is that power which is neither temporary not delegated, nor subject to particular rules which it cannot alter, not answerable to any other power or earth.

Hinsley gives a classical definition of sovereignty and accordingly defines it as, “… the idea that there is a final and absolute political authority
in the political community… and no final an absolute authority exists elsewhere.”¹¹ Here the idea of final authority is associated with the notions of internal and external sovereignty.

Political philosophy, as we know concerns itself with community, public life, social organizations and the like. It addresses issues such as the rights of the individual in relationship to the power of the state and society, the nature and legitimacy of political authority, of democracy and so on. The ‘clarification’ of concept forms an important work of social and political philosophy. D. D. Rapheal (1912-2005) in ‘Political Philosophy’ considers that ‘clarification’ of a term involves three basic steps namely ‘analysis’, ‘synthesis’ and ‘improvement’.¹² Sovereignty as observed is the legal authority which is supreme by nature or may be defined as supreme authority within a territory. Following the first step of clarification, each of the terms associated with the concept of sovereignty needs to be ‘analyzed’. First, the holder of sovereignty possesses ‘authority’. Authority as defined by Prof. R.P.Wolff is, “… the right to command and correlatively the right to be obeyed.”¹³

The term ‘Authority’ comprises of ‘power’ to command and the word right connotes ‘legitimacy’. Power gives competence to rule against the will of the people but when it gets augmented with legitimacy people accept and follow the laws spontaneously considering it in the welfare of the society. Thus, people obey will of the authority but when sometimes they ignore or challenge it they are liable to punishment implying that when legitimacy fails, power controls the situation. A holder of sovereignty derives authority for some mutually acknowledged source of legitimacy like natural law, a divine mandate, hereditary law, constitution etc.¹⁴ The term ‘legal’
associated with sovereignty means a sovereign has the authority to make laws and everyone without exception needs to follow it. Sovereignty being ‘supreme’ implies that it is supreme not only to the other agencies or associations in the state but also to the custom, the norms of the society and even to the natural and divine law.

Sovereignty includes various important principles or laws which are essential for its legitimate power-exercise over people. In the sphere of sovereignty when one owes his duty to the state, the state in turn is expected to provide complete protection to his life and property. Thus, in sovereignty there exists a logical relationship between duty and right. ‘Improvement’, which comes as the final step implies that a concept needs to be given a definition that would help to arrive at its complete and clear meaning. Sovereignty refers to supreme power of the sovereign but this power is not employed without use of rationality and it gives due regards to custom, social values etc. All these factors gives sovereignty its legitimacy, otherwise it would perish in due course of time. Thus, sovereignty though by nature is absolute and unlimited but it is by no means an arbitrary power or is coercive by nature.

Sovereignty has two basic aspects ‘external’ and ‘internal’. Internally speaking it means that state has supreme power over the people within its domain and externally it implies complete freedom from foreign rule. Thus, in a state, sovereign power is indispensable so as to free it from both the internal and external control.

The concept of sovereignty as it developed includes a number of general features and also a series of distinctions. All of this helps to arrive at the correct meaning of sovereignty. The first of this is the distinction
between ‘legal’ and ‘political’ sovereignty. While legal sovereignty implies to the supreme law-making authority of a state, the political sovereignty means the will of the people. These terms are though superficially different but they are closely related to each other that is, though the legal sovereign has its unlimited power it cannot ignore the will of the ruled people. But at the same time, it is only possible in indirect democracy that the will of people and formation of law go together otherwise this connection between legal and political sovereignty indicates only the type of law which the public opinion demands.

Another distinction is made between ‘De jure’ and ‘De facto’ sovereignty. A *De jure* sovereign is given supreme power by the law. He rules and people obey him, although he may be less in physical strength. On the other hand, *De facto* sovereign is one whom the law of country does not recognize as a sovereign but he enjoys supreme power either by virtue of his physical strength or moral force. Thus, he may be a military dictator, a spiritual priest, traditional ruler etc. It is often seen that in due course of time a *De facto* sovereign obtains legal status and ultimately becomes *De jure* sovereign. This can be illustrated with the example of Bolshevik regime in Russia which from a *De facto* became a *De jure* regime.

Apart from the distinctions the attributes of sovereignty too help to arrive at its proper concept. Sovereignty has ‘absoluteness’ as one of its major characteristic. This means that the supreme power of the state is absolute without any limit and laws can be done or undone by it as it pleases. The sovereignty of a state exist as long as the state survives that is the supreme authority of a state does not cease with the dismissal or death of a particular man who bears it. With changes in government too the
sovereignty of a state continues. This is referred to as ‘permanence’ and is also an essential feature of sovereignty. Sovereignty has ‘exclusiveness’ which means that the state is supreme and all other higher powers are excluded from the state. There is only one sovereign and no association can compete with it. Though the supreme will of the state are exercised through different organ but it does not imply a division in the will of the state that is sovereignty is indivisible. Thus sovereignty as an important feature of the state has absoluteness, permanence, exclusiveness, indivisibility and so on. Thus, Burges rightly defines sovereignty as:

“… original, absolute and unlimited power over the individual subjects and over all associations of subjects, it is underived and independent power to command and compel obedience”.22

(2) RISE AND DEVELOPMENT OF SOVEREIGNTY

Sovereignty, like all other political terms and theories too has evolved with time. Though Sovereignty is a modern concept, it did exist in ancient and medieval times in the very idea of supremacy. From the time of classical writers, like Aristotle Sovereignty or as he referred it ‘supreme power’ of the state, had its existence. Aristotle classified his states on the basis of whether few people or many bore the supreme power.23 A concept of sovereignty existed with the Romans who used notion like imperium that is authority and majestas to explain sovereignty. The very idea of ‘legal and political sovereignty’ existed during this period. They considered the state as the legal sovereign and people as the political sovereign. During the later part of the Roman Empire ‘absolute sovereignty’ evolved but with time it gave way to ‘popular sovereignty’ especially with Teutonic people. These people believed in the idea of individual independence and formed popular
assemblies powerful enough to elect and to remove rulers. The concept of legal sovereignty or absolute sovereignty of the state diminished with the coming of the theory of the ‘Two Swords’ which came during the Medieval Age. This theory was against the practice of both secular and spiritual power being bestowed on a single person or a group of people. With the coming of this theory, power began to be shared by the state and the church with ‘ecclesiastical affairs’ handled by ecclesiastical courts. This hampered and went against the sovereignty of the state. The concept of ‘Two Swords’ created a relationship between Emperor and the Pope. They both performed their respective functions and citizenship of the state and membership of the church were closely related to each other. With time with the coming of powerful Popes and weak emperors the church though became independent of the state; the state remained dependent under the mighty church.

This age also began to believe that political authority of all rulers was the result of the willing submission of the ruled people. They believed that the state is the result of the will of the community. Even if a ruler came into power by conquest, he becomes a sovereign only by the consent of the people and therefore it was the people who were considered the true sovereign. They believed that a ruler is given merely the authority by the people to exercise sovereignty. This idea of a ruler being selected and remove at the will of the people was propounded by Marsiglio of Padua (1270-1340) who considered people to be the spring of authority. The king in medieval world was bound by the ‘Law of God’ and the ‘Law of nature’. The law of nature contains a set of rules of good conduct, which are derived from nature and were discovered through moral intuition and by the application of human reasoning. The ‘Law of God’ or the divine law is also
a set of rules of good conduct which are derived from holy books and scriptures and are said to be the will of God. The king was given the divine right to rule but his powers were limited. If a king became a tyrant the subject could remove him. His powers were checked and curtailed by the church, the people and the law of nature. Medieval ages therefore favored the growth of sovereignty of the people rather than the sovereignty of the state. Thus, during Middle Ages with universalism of Papacy, and the empire and with its feudal society having no unity of power, sovereignty could not further develop.

The concept of sovereignty, therefore, can be said to first arise during the emergence of secular monarchy in the fifteen century in Europe. During this period different circumstances led to the emergence of sovereignty. By the end of Middle Ages feudal lords became weak owing to their own conflicts and crusades. Their monopoly over wealth was destroyed with the development of commerce and towns and their military supremacy was badly affected by new methods of warfare. Also the ruling monarch achieved a greater degree of unification and centralization of authority helping them to break the shackles of Pope’s control. Thus, in the struggle for supremacy between church and kings, the kings triumphed and sovereignty became equivalent to authority of monarch. Thus during this period, the doctrine of sovereignty aimed at making the monarch supreme over his feudal lords as well as church in the state. But with Jean Bodin’s theory, sovereignty became the attribute of the state.

2.1) MONISTIC THEORY OF SOVEREIGNTY

Various political thinkers and religio-social reformers have given various theories of sovereignty. Jean Bodin (1530-1596), Thomas Hobbes
(1588-1679) and John Austin (1790-1859) articulated the ‘Monistic theory’ of sovereignty. This theory emphasized the vesting of supreme power in a single central authority which is bestowed the power to make supreme laws. Haines states, “The philosophy of Bodin, Hobbes … tended to discredit the old natural law ideas and to make the state the sole source of law.”

a) Jean Bodin:

He one of the exponents of monistic theory gave this theory at a time when there existed a civil war in France between Calvinist Huguenots and the Catholic Monarchy. He examined the problem and concluded that the out of date medieval notion of segmented society could not solve the present problem and rather there was a need of unitary body politic that was above human law. Earlier the medieval notion was that, law is a part of universal and eternal law and it conceived kings and rulers who enforced this law to be under it themselves. The notion of state being the source of law as propounded by Bodin was completely a new notion. Bodin propounded this theory of sovereignty to make the state as the supreme political institution. His ‘Six Livres de la republique’ (Six Books of the Republic) which appeared in 1576 is one of the most celebrated work where ‘Souverainete’ (sovereignty) forms the central concept. In this treatise he defines sovereignty as,

“… the absolute and perpetual power of commanding in a state’, as the ‘supreme power over citizens and subjects unrestrained by law”

The word ‘absolute’ signifies that a sovereign is free of obligations and conditions and is not bound either by law of his predecessor or his own subject. ‘Perpetual’ means that sovereignty is permanent in nature. Imposing a time limit on a sovereign by some authority would signify that the
authority is above the sovereign which would be against the absolute a power of the sovereign. For Bodin sovereignty signifies ‘power’ to make laws which may be just or unjust. The sovereign has the authority to make laws, alter them and is under the command of no authority. The subjects under this theory have no right either to consent or to revolt. Through his theory he rejects of the claim of extra territorial authority like ‘Papacy’ and ‘Holy Roman Empire’ to control over a sovereign nation. Thus he makes the state both internally and externally independent by denying control of internal authorities like feudal baronage and corporations and external extra territorial authorities. Bodin held that a king is omnipotent that is all powerful like God so he does not need the consent of the ruled but at the same time he must rule with justice like God.\(^3\)\(^2\) However in case of human beings as a king is not possible to rule like God. Thus, though Bodin believed in ‘absolute sovereignty’ but at the same time gave certain limitations too. He though consider the sovereign having the authority to make laws which binds everyone expect the sovereign but at the same time he makes him bound by customary laws like law of nature, divine law etc. F.H. Hinsley rightly comments:

At a time when it had become that the conflict between rulers and ruled should be terminated, [Bodin] realized- and it was an impressive intellectual feat- that the conflict would be solved only if it was possible both to establish the existence of a necessarily unrestricted ruling power and to distinguish this power from an absolutism that was free to disregard all laws and regulations. He did this by founding both the legality of this power and the wisdom of observing the limitations which hedged its proper use upon the nature of the body politic as a political society comprising both ruler and ruled.\(^3\)\(^3\)
b) Thomas Hobbes:

Thomas Hobbes (1588-1679) justifies absolute sovereignty. The English civil war of 1642 was highly condemned by him as he considered it the cause of social disintegration. The civil war made him realize that order and peace were indispensably needed for a state to exist and state absolutism was essential for social solidarity. Hobbes points out that in both the case of civil wars and state of nature there can be:

No place for industry; because the fruit thereof is uncertain; and consequently no Culture of the Earth; no Navigation … no commodious Building … no account of Time; no Arts; no letters; no Society; and which is worst of all, continuall feare, and danger of violent death; and life of man, solitary, poore, nasty, brutish and short.

Hobbes considers sovereignty as an essential need to escape this state of nature which he describes as ‘solitary, poore, nasty, brutish and short’ and one which leads to war of all against all. To escape this insecurity Hobbes recommends absolute sovereignty which according to him many may consider dangerous but its positive aspects overshadows the negative ones. Hobbes states:

And though of so unlimited a Power, man may fancy many evil consequences yet the consequences of the want of it, which is perpetuall warre of every man against his neighbour, are much worse.

Hobbes begins his philosophy with the analysis of human psychology. He considers ‘selfish motive’ to be the reason for every human action. Man to avoid the insecure state of nature enters into a contract and sets up a civil society. Here the citizens surrender their power and liberty to a person or group of people whom they authorize to govern them. This authorized person becomes the sovereign and the rest are his subjects. Hobbes, here
gives a new orientation to a social contract theory. The anti-monarchial
writers of sixteenth century used ‘social contact theory’ to oppose absolute
monarchy and Hobbes using the same theory does the reverse. According to
him a contract exists amongst the ruled rather than between the ruler and the
ruled.\textsuperscript{39} He says, “A superior or sovereign exists only by virtue of the pact,
not prior to it.”\textsuperscript{40} Dunning observes about this social contract:

It is an agreement of each man of a multitude with
every other to give up his natural rights in favour of a
common or third party, but this third party, the
sovereign, gives up nothing, and retains all his natural
rights and powers.\textsuperscript{41}

A sovereign can never be unjust since injustice signifies violation of
contract and a sovereign is not bound by the covenant.

Hobbes attaches different attributes to a sovereign and justifies each
of them in detail. Sovereignty, for Hobbes, should be unlimited, irrevocable,
inalienable and indivisible. To offer a rational explanation for unlimited
sovereignty, Hobbes points out that by nature man is provided the right of
self defense but in spite of it he faces continuous danger to his life during
civil wars and in a state of nature. To avoid this condition, we enter into the
political state and authorize the sovereign of our security and protection. As
the ultimate aim of sovereign power is to establish peace, justice and
maintain security, to impose restrictions on a sovereign becomes completely
irrational.\textsuperscript{42} His power, therefore, is unlimited according to Hobbes. He is
not bound by civil laws since he is the creator of it and is, therefore, above it.
The laws of nature according to Hobbes are counsels of reason and prudence
and therefore are not laws proper and thus can’t curtail a sovereign’s
authority.\textsuperscript{43} Divine law cannot act as a limitation since he is the interpretor of
it.\textsuperscript{44} His power is irrevocable. Once people authorize a sovereign to rule
them, they lose all their power. His actions can never be illegal since he himself is the spring of the laws and laws are subject to his interpretation. His power is indivisible as he admits no co-ordinate or even sub-ordinate authority.

As it becomes clear from the theory of sovereignty given by Bodin or Hobbes there are several rights and accompanying it there are few duties of the sovereign as well. Bodin in his monistic theory assigns several rights (\textit{iura}) to the sovereign which includes the right to impose laws, to declare war and include peace, of appointing, all principal officers of the state and of authorizing and rejecting all public appointments. The sovereign also has the right of claiming allegiance from all subjects, to act as a highest court of appeal in matters of judiciary and administration, to grant pardon, of coining money and imposing taxes.\textsuperscript{45} Hobbes in his theory considers that:

\begin{quote}
The rights of the sovereign are those which have been surrendered to it by the covenant that is the rights of the natural man. Therefore the extent of the rights of the sovereign is determinable not artificially but by nature.\textsuperscript{46}
\end{quote}

In his theory Hobbes ascribes to the sovereign unrestricted power over property, ‘of making wars and peace of other state with absolute control of the resources of the subjects’\textsuperscript{47}, of making, interpreting, and administrating laws and the like as Dunning puts it:

\begin{quote}
The sovereign is the sole source of official authority in counsellors and magistrates, of honours, wealth and privileges conferred for services to the state, and of the gradations of dignity among recipients of such rewards.\textsuperscript{48}
\end{quote}

The other important right of the sovereign is the right of judicature that is of determining all controversies between subjects. For Hobbes some
rights of the sovereign give rise to his duties as well. A sovereign according to Hobbes has the duty of making equal laws, of governing and conducting policies in a manner to protect the society from disintegration, of not only providing security but also equality, prosperity, justice etc.

(c) John Austin:

John Austin (1790-1859), an English jurist in his ‘The Province of Jurisprudence Determined’ gives the exposition of ‘legal or monistic theory of sovereignty’. This treatise which got published in 1832 made him the greater exponent of monistic theory of sovereignty. His views were largely inspired by Hobbes and the conditions then prevailing in England. He got influenced by Utilitarian school of thought founded by a great English socio-ethical thinker, Jeremy Bentham (1748-1832). According to this school, the basic thought laying any policy concerning people should concern itself with ‘greatest happiness of greatest number’. Basing his theory on this school of thought he propounded his theory of ‘positive law’ which is the will of supreme legal sovereign and one who is bound neither by natural nor any other superior law. When in any condition the religious commandments or natural law comes in conflict with this positive law enforced by the state the later is to prevail. The subjects do not posses any legal right against the state and the rights of the citizen according to this theory is merely the concession given by the sovereign. This theory by establishing a single source of law gives the monistic theory of sovereignty based entirely on legal aspect. Austin in his theory, declared:

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.\textsuperscript{53}

Austin in this theory first of all considers it important to locate ‘the definite superior’ above whom no other authority exists. This superior does not represent the general will, the people in the mass, the electorate, moral sentiment, nor the will of the God but is the ‘determinate’ authority free of all legal restraints. He gives certain adjectives inseparable to the faculties of a sovereign. A sovereign according to him, is ‘determinate and absolute’ and his will is without any limit. For this he cites the reason that constraining the sovereign to act is curbing his supremacy and in such a case he ceases to be a sovereign.\textsuperscript{54} According to Austin, supreme power limited by positive laws is a flat contradiction of terms.\textsuperscript{55} He further considers the will of the sovereign to be ‘indivisible’ and ‘inalienable’ the reason being the power over certain functions if confided to other bodies or persons the universal supremacy of sovereignty ceases to exist.\textsuperscript{56} Similarly, if power is transferred, a sovereign cannot resume it as per its own desires. Last of all Austin considers law to be, “… command given by superior to an inferior.”\textsuperscript{57} Everyone needs to oblige to the laws made by the sovereign and he himself is free and unrestrained from it and can do as it desires. Austin vehemently asserts:

“… the power of the superior sovereign imposing the restraints on the power of some other sovereign, superior to that superior, would still be absolutely free from the fetters of positive law. For unless the imagined restraints were ultimately imposed by a sovereign not in a state of subjection to a higher or superior sovereign, a series of sovereigns ascending to infinity would govern the imagined community, which is impossible and absurd”.\textsuperscript{58}

Thus, for Austin, sovereignty without being unlimited is impossible to exist.
Austin’s theory has been criticized largely by Henry Maine, Clarke, Sidgwick and others. One of the main reason of this theory been censured is that it goes against the modern democratic set up. His theory gives the expression of hierarchy compressing of superiors and inferiors whereas democracy is an association of equals. The proponents of the notion that sovereignty cannot be limited consider laws of nature, the principles of morality, the teachings of religion, the principles of absolute justice, immemorial customs etc to be the limiting factors of sovereignty. According to Schulze, a German writer," There is above the sovereign a higher moral and natural order, the eternal principle of the moral law.”

Austin completely ignores the customs which according to Maine has ‘immense powers’. A sovereign can in no way ignore customary laws lest his authority will perish. Henry Maine in his ‘Early History of Institutions’ focuses on this aspect and states:

The vast mass of influences which, for short, we may call moral, perpetually shapes, limits, or forbids the actual direction of the forces of society by the sovereign.

The adjective of sovereign’s will being unlimited and absolute is not possible since it is limited both internally by constitutional laws and externally by internationally laws, the U.N. being one of the powers which exists externally. James Stephen writes:

As there is in nature no such thing as a perfect circle or a completely rigid body, or a mechanical system in which there is no system or a state of society in which man acts simply with a view to gain so there is in nature no such thing as an absolute sovereign.

Bluntschli too expresses a similar view regarding sovereignty being limited by internal and external forces. He declared that, “… there is no such
thing on earth as absolute independence…. Even the state as a whole is not almighty, for it is limited externally by the rights of other states and internally by its own nature and by the rights of its individual members.”

The theory has historical limitations too which make it seem impractical and artificial. No sovereign has anywhere assumed unlimited power and even the sultan of Turkey who was once at the zenith of power was limited by a code of conduct according to tradition. If Austinian views are applied to the position held by king in parliament his theory again seems absurd. Since apart from the king their exist Roman Catholic and trade union who bear power, so unlimited power cannot exist. To overcome some difficulties of this theory Dicey divided sovereignty into ‘political sovereignty’ being enjoyed by state and legal sovereignty being bestowed on the king in the parliament. But this idea goes against the indispensable notion of indivisibility of power attach to sovereignty by Austin. Again if the electorates are considered the real sovereign who delegates their power to representatives then again it goes against the inalienability of power of a sovereign. Also locating the sovereign in a federal state seems impossible and the qualities attributed to him by Austin cannot in real sense be exercise by him. Gettelle writes:

He separated the theory of sovereignty from its ethical and historical background and by a process of abstraction built up the science of positive law.

Thus to conclude his theory does not fit in the wider perspective of political philosophy since it completely ignores the socio-political forces which play a very dominant role in the operation of any legal institution.

Thus, Jean Bodin, Thomas Hobbes and John Austin, all the three thinkers advocated for a sovereignty wherein a sovereign enjoys
unrestrained power and unfettered judgment to achieve peace and escape the evils of the state of nature for which a civil society is formed. The monistic theory of sovereignty was considered an essential attribute of state till the nineteenth century and then emerged the pluralistic theory of sovereignty which raised their voice against the previous one.

(d) Hugo Grotius:

Another about sovereignty was forwarded by Hugo Grotius (1583-1645), a Dutch scholar, who considered sovereignty as a power not subject to the legal control of another. For him sovereignty is supreme political power wherein political power implies ‘moral faculty of governing’ a state, performing functions for the benefit of the people and these functions are performed either by the sovereign himself or by people selected by the sovereign. He believed that people though are the source of power, once they alienate their authority it cannot return back to them that is to say sovereignty according to him is irrevocable. The sovereign has supreme power and is under the control of no human will but his power is limited by Natural law, Divine law, Constitutional law and international laws. The theory of sovereignty as propounded by Grotius shows a clear influence of Bodin and Suarez and therefore his major contribution is limited to his work in field of external aspect of sovereignty.

During the seventeenth century the relations between independent nations were becoming chaotic owing too several reasons. Universal authorities like Papacy and Holy Roman Empire had failed to smooth and regulate international relations, further there were religious wars and pursuit for expansion, colonization and exploitation of weaker lands by many European nations. Under these conditions when the uniting force in Europe
that is a common religious worship had disappeared, a non-religious basis was needed to regulate relations between sovereign nations. This forms the major contribution of Grotius wherein he tried to formulate international laws governing sovereign nations. He considered that international relations should be regulated by laws of nature. He considered that man has an innate impulse as a social being to live in society since he is a social being. However, this living together needed certain conditions or values so that the society is maintained in order.\textsuperscript{71} For this, he considered the natural law to be important. He said:

\begin{quote}
(Natural law is) a dictate of right reason, which points out that an act, according as it is or is not in conformity with rational nature, has in it a quality of moral baseness or moral necessity; and that, in consequence, such an act is either forbidden or enjoyed by author of nature, God.\textsuperscript{72}
\end{quote}

For Hugo Grotius international relations should be regulated by laws of nature. For him each sovereign state is equal and is internally supreme and externally independent. According to him the subjects have no right to resist against the sovereign lest his words are against the natural law or divine law.\textsuperscript{73} Thus, on one hand by giving supreme power to the sovereign and by limiting the right to resistance Grotius becomes an advocate of absolute sovereignty. On the other hand by limiting the power of the sovereign by laws such as divine, natural and international laws he comes at par with the anti-monarchial writers of the time and seems to support limited sovereignty.

\textbf{(2.2) PLURALISTIC THEORY OF SOVEREIGNTY}

Like other theories of sovereignty as Monistic, Natural Law etc., political thinkers proposed another theory termed as ‘Pluralistic theory’ of
sovereignty. The pluralistic theory of sovereignty is based on the views of Robert M. MacIver (1882-1970), A.D Lindsay (1879-1952), Leon Duguit (1859-1928), Harold J. Laski (1893-1950), George Douglas Howard Cole (1889-1959), Miss Follet, Ernest Barker (1874-1960) and Hobhouse (1864-1929). We shall discuss the view points of few of these thinkers of the Pluralistic Theory of sovereignty.

Harold Laski is one of the proponents of pluralistic theory of sovereignty. His political thought process evolved from one point to another which can be divided into three basic groups. The first being pre-eminently of pluralism, the second of Fabian and, third basically of Marxism. The Fabian society, whose views Laski shared was founded by a group of intellectuals who often gathered together to study and discuss the current social ethical problems. The Society got established in January 1884. The founders of the society were influenced mainly by the doctrines of Henry George, the various British interpretations of Marx, and the developing collectivism in John Stuart Mill’s exposition of individualistic doctrine. The main aim of the Fabians was to spread socialist doctrine among the educated middle class and to persuade the government of Great Britain to adopt it in practical operation. In his first phase Laski came strongly against the monistic theory of sovereignty and in his book ‘A Grammar of Politics’ declared the whole concept to be obsolete and said, “In the background of difficulties… it is impossible to make the legal theory of sovereignty valid for political philosophy.”

In the Fabian phase he began to consider state as an important association and instead of asking for abolishing sovereignty he became content with de-centralization of power, considering it a major path towards
establishment of democracy. In the third phase, he considered that a classless society that is a socialist society is indispensable to limit the authority of the state or the state to share its power on pluralistic lines. He was a strong democrat so was against violent use of means as suggested by the Marxist, to over throw the state.

The pluralists were against the monistic theory of sovereignty which believes the state to be the single source of law. For them, the state is a social institution among various other associations rather than a sovereign entity. They do not believe, as the monists did, in the unity of life as for them life is multilayered and each layer of it is important or it may be said that they stress upon the plural dimension of life. They consider variety of association as one of the basic quality of modern society or society for them is a web of associations. Each association performs certain functions which correspond to different needs of man in modern society. Cooker states the function of these associations in following words:

“...the state is confronted not merely by unassociated individuals but also by other associations evolving independently, eliciting individual loyalties, better adapted than the state- because of their select membership, their special forms of organization and action- for serving various social needs”.

This implies that each of these associations operating in their respective domain should have functional freedom. That is to say, the pluralist advocate for group interest and autonomy of different associations and groups like educational, economic, religious etc. They also hold that these groups are natural and spontaneous and not a creation of the state. For them groups, “...should be recognized as possessing distinct
natural co-operate personalities independent of any creative act on the part of the state."\(^{82}\)

They do not consider state to be all omnipotent but for them it is one of the several associations present in the society. This joint venture of people’s association to sovereignty makes it strong and more effective in its functioning for the welfare of the citizens. The state, accordingly, should not monopolize the power.\(^{83}\) They argue that it is wrongly assumed by us that state is more important association rather the sum total of association and group action exceed that of the state.\(^{84}\) The state should rather be federally organized and not be absolute with indivisible power. As Laski puts it, “But because society is federal, authority must be federal also.”\(^{85}\) Power should be divided among groups and each allowed, “… legislate for itself within the ambit of the general level at which the society broadly aims.”\(^{86}\)

The pluralists emphasize upon the positives aspect of this theory on modern society. According to Harold Laski absolutism is against humanity at large while the pluralistic notion is fully compatible with the interests of modern man. He says:

In a creative civilization what is important is not the historical accident of separate States, but the scientific fact of world-interdependence. The real unit of allegiance is the world. The real obligation of obedience is to the total interest of fellow-men.\(^{87}\)

Miss Follett in ‘The New State’ points out:

They (pluralist) recognize the value of the group and they see that the variety of our social life today has a significance which must be immediately reckoned within political life.\(^{88}\)

The greatest contribution of the pluralist is their aim of decentralization of authority. They argue that the centralization of autonomy
stressed by the monists is not morally correct since it forbids one of self expression by denying any role in state organization. They aim for a democracy with active participation of groups in decision making process giving maximum opportunity for self expression of individual needs and expression. Miss Follett rightly views that the pluralists feel that the most indispensable of our needs, “… is the awakening and invigorating, the educating and organizing of the local unit.”

Laski in his ‘Reflections on the Revolution of Our Time’ speaks about this need of democratization of power, which is essential for the development of human beings in various walks of their life in modern times:

In modern society, the large industrial co-operations are controlled by a caste of economic directors, namely remarkable for their skill in financial manipulation, who are masters alike of their share holders and of the consumer, and are not seldom in a position to hold even the states to ransom. Their power is as massive in volume as it has largely been irresponsible in operation. We have reached a state in historical evolution where either their power must be subordinated to the interest of the community or the interest of the community will be a tragic pseudonym of their power.

Thus, pluralism advocates for giving importance and autonomy to associations present in the society. It becomes worth noting that a sovereign state must be subject to limitations for democracy to prevail. It is so because the state should function as per the needs of its citizens and therefore, the citizens should actively take part in making sovereignty more effective and more powerful in discharging its duties.
(2.3) POPULAR THEORY OF SOVEREIGNTY

The concept of popular sovereignty means giving ultimate sovereignty to the people. This doctrine holds that people are the real sovereign and it is they who assigned duties to different agents viz kings who are subject to the sovereign people. This sovereignty resides in the whole community and not in an individual or a group.\textsuperscript{92} The king in this way becomes an agent and an executive head of the people and works for their betterment. One of the important proponents of popular sovereignty is Cicero of ancient Rome, who believed that, “The common wealth … is the people’s affair”\textsuperscript{93} Thereby stressing that authority to rule comes from the people and therefore it should work for the people and serve them to best of its strength. During his times in the Roman emperor remain absolute monarchy and his thought could not make sufficient influence on politics.

The idea of popular sovereignty in true sense gained ground with the revolt against absolute monarchy. A lot of civil and international warfare started by the second half of the sixteenth century after mainly influenced by monarchomac\textsuperscript{94} who upheld the sovereignty of the people against the sovereignty of the kings. These thoughts were expressed in the writings of the monarchomac or anti monarchial writers like Marsiglio of Padua (1270-1340), William of Ockam (c1287-1347), George Buchanan (1506-1582) etc. during sixteenth and seventeenth century. They conceive that sovereignty originally belonged to the people and it is they who are the source of power.\textsuperscript{95} Marsiglio held:

\begin{quote}
The whole cooperation of citizens, or its weightier part, either makes law itself, directly, or entrusts this task to some person or persons, who are not and cannot be the legislator in the absolute sense, but only for
\end{quote}
specific matters, and temporarily, and by virtue of the authority of the prime legislator.96

In various countries including France, England, Scotland, Holland, Spain writers cropped up producing in literature leading to the revival of popular sovereignty. Nicholas Banard’s ‘Awakening Call to Frenchmen’, Francis Hotman’s ‘Franco Gallia’, and Herbert Languet’s ‘Vindiciae Contra’ etc. questioned the divine rights of the king and pleaded for the sovereignty of the people. In Franco Gallia, Hotman gives a systematic explanation of popular sovereignty. He considers that a king rules by the consent of the people. There exists a contract between the king and the people, the king to rule justly and the people to obey him as long as he remains just. It holds that people are above the king as they existed before the king and they exist without the king, but the reverse is not possible. Since power comes from the people, people are the real sovereign. The doctrine of popular sovereignty gained universal appeal and popularity with its inclusion in the American and French proclamations.

(a) John Locke:

John Locke’s (1632-1704) concept of sovereignty is popular in nature. He gave his theory of political philosophy in his famous book ‘Civil Government’.97 He was against the divine rights of the king and rejected absolute sovereignty as propounded by Hobbes. The contract idea is central to his political philosophy. Man, in his view, is a social animal and therefore, can’t live alone. He writes:

God, having made man such a creature that, in his own judgment, it was not good for him to be alone, put him under strong obligations of necessity, convenience and inclination, to drive him into society, as well as fitted
him with understanding and language to continue and enjoy it.98

Man being social in nature comes into a contract and willingly submits his rights to the community so that his liberty, right to live and property will be received by him from the society.99 The Lockean sovereign is not absolute but rather limited both by natural rights and by the purpose for which the state has come into existence. In his theory, he concludes that people are the real sovereign and therefore they cannot alienate their power to the state. The state has come into existence through a contract between the people in a community and therefore it has a human origin and not a divine one. The ruler, accordingly, becomes a mere agent of the people and the people being the real sovereign can impose limitations on him.100 Law, for Locke, is the will of the people. Now since the ruler has gained his position on certain position of good behaviour the people have full right to revolt against an inefficient ruler. These all features make his theory of sovereignty popular in nature. After Locke, his theory was developed by Rousseau into an extreme form of sovereignty of the people and was responsible for the outbreak of French revolution.

(b) Jean Jacques Rousseau:

Rousseau (1712-1778) and Jefferson became the chief campaigners of the doctrine of popular sovereignty.101 Jefferson considered sovereignty as an ‘essence of democracy’ and asserted that a government acquires its just power only by the consent of the ruled. In his advocacy of popular sovereignty he gave the people the right to revolt.

Rousseau in his work ‘The Social Contact’, in eighteenth century gives the theory of popular sovereignty where he considers the government a
mere agent of the people executing their ‘General Will’. According to him sovereignty resides in ‘General Will’ of the people without any limitation. He was against the total surrender of power to the ruler which according to him though assured peace curbed ones liberty. He believed that sovereignty originated from the people always stayed with them. In his theory, sovereignty cannot be delegated and must be actively used by the people themselves. With the writings of Jefferson and Rousseau ‘popular sovereignty’ came to be accepted as the basis of ‘democratic state’.

(c) Ritchie:

In the modern times, Ritchie explains this theory of popular sovereignty in his different writings. He considers that the sovereign power reside in the people who exercise in two ways. Directly by exercising their ‘right to vote’ and indirectly by their, ‘influence on the legislature and by their threat to the existing government to remove them and establish another of their choice’. The sovereignty as bestowed on the mass by the concept of popular sovereignty comes into existence only through legal channel. Public opinion unless expressed in a legal form and through legal procedure prescribed by the law will have no validity. Thus, Garner puts it in following words:

The sovereignty of the people, therefore, can mean nothing more than the power of the majority of the electorate, in a country where a system of approximate universal suffrage prevails, acting through legal established channels, to express their will and to make it prevail.

2.4) SOME OTHER VIEWS AND THEORIES OF SOVEREIGNTY:

Another view regarding sovereignty has been worked out by the famous English thinker and moralist, Jeremy Bentham (1748-1832). He is the founder of Utilitarian school of political philosophy. In his views
sovereign should have unlimited power and he was vehement supporter of written constitution wherein he gives the sovereign the right to amend constitution according to the needs of the people and as the demand of the time and situation according to the needs of the people and as the demand of the time and situation. Bentham following the foot steps of John Locke considered that sovereignty should reside in the ‘majority of a community’. To make the majority exercise its will, Bentham advocated for a ‘republic consisting of one House of Delegates who are required to present yearly accounts of their delegacy to those who appoint them.’ It means Bentham prefers that the responsible leaders of the people or government authorities must be held responsible for their assigned works related to public interest. Thus, he always favours that a government authority should be accountable before the law and the citizens.

He envisaged several ways to keep the governing body under the control of the sovereign power and in his case the majority in a community. For this he incorporated the idea of universal adult franchise thereby giving every adult male and female the right to exercise their vote and make their desire being felt. Next he considered annual election of legislative body as according to him it would ensure that the delegates are in touch with the public opinion. He was against the parliament being the House of Representatives rather it should be the House of Delegates as they are the responsible agents of their people’s welfare activities. This is because representatives for him are synonymous with people who are appointed for a fixed duration and can work according to their own wishes while delegates signify people directly under the control of the appointer. He considered
the king, the House of Lords and the established Church as being useless, and therefore, advocated for their removal.

Again, one most important theory of sovereignty emerged in the nineteenth century under the name ‘Auto-limitation Theory’. This theory of self-limitation or auto-limitation of sovereignty was propounded by Hermann von Ihering (1850-1930) and was later adopted by George Jellinek (1919-2010) and various German writers George Wilhelm Frederich Hegel (1770-1831), Heinrich von Treitschke (1834-1896) etc.\textsuperscript{107} According to them sovereignty an attribute of the state should be limited by nothing but its own will. They consider the state to have unlimited sovereignty, a sovereignty which is limited by self-imposed and voluntary limitations of internal, international and natural laws; which it can forgo according to its wishes. Jellinek laid emphasis on constitutionalism in his theory of sovereignty. For him, a sovereign state can change constitution but must possess a constitution. According to him, sovereignty is ‘auto-determination, auto-limitation, and auto-obligation.’\textsuperscript{108} The argument that the supporters of this theory give is that the modern state does not have a system of absolute monarchy but rather it is a Rechtsstaat, one which is bounded by its own law. According to them, the state frames the laws for itself and the limitations impose by it are voluntary impositions upon itself. They consider the limitation of international laws too to be self impose since a sovereign state cannot be bound by any external power. Treitschke believed that every state has,

“… the undoubted right to declare war and is consequently entitled to repudiate its treaties and thus rid itself of the limitations upon its sovereignty which they have imposed. As to the limitations imposed by customary international law, they too are merely self
limitations since the voluntary assent of the state is necessary to their binding validity, and that assent ones given can be withdrawn. The subjects of international law being sovereign states, subject to no legal superior, they are the judges in the last analyses of their own rights and of their obligations to other states.  

Another significant theory entitled ‘Theory of Sovereignty of Reason’ emerged with the efforts of the French thinkers. Though it was started in eighteenth century yet it left its impact in the nineteenth century also. The Doctrinaires in France came up with a compromise theory of sovereignty in an effort to bring about reconciliation between monarchy and constitutional institutions in Europe. It hoped to bring a compromise between the king and the people wherein it gave rights to both the king and the people but denied absolute authority to either. This theory of sovereignty derives sovereignty from intelligent thought rather than from the will and it places the final authority in reason.

The most prominent name in this theory of ‘Sovereignty of Reason’ was that of Victor Cousin (1792-1867). In order to oppose absolute sovereignty, he gave his philosophical views stating that sovereignty absolute right are the same. A right can never be based on ‘force’ but rather would rest upon ‘absolute reason’ as ‘reason’ can convince the rational being who is also political or social beings. But since man is not a perfect being his reason cannot be absolute which makes it to conclude that neither king nor people can claim ‘absolute sovereignty’ because both are liable to commit mistakes. Further, in order to support constitutional form of government, he asserted that ‘absolute sovereignty’ is unattainable since absolute reason cannot be reached. However, certain principles of reason can be attained and this can be best found in ‘Constitutional Government’.  

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What he meant to say was that men must share their rational element jointly and should adopt the resolution which is rationally acceptable to all.

Francois P. Guizot (1787-1894) held similar views like Cousin and was against ‘Absolute Sovereignty’ either being given to the ‘people’ or the ‘king’. For this, he pointed out the reason that absolute form of sovereignty always led to tyranny and that authority should be kept under constant vigilance so that justice could be attained. He was an advocator of representative form of government whose members should be those who represented best of reason and could help to achieve liberty in true sense. The theory of sovereignty of reason, developed further with certain modifications and with the work of Alexis de Tocqueville (1805-1859) whose democratic ideas gained momentum in Europe subsequently. After the revolution of 1848, ‘Popular Sovereignty got established in France again and the constitution declared that sovereignty rested in the general body of the citizen.

With time yet another theory came into being which vehemently emphasized national empowerment. This was J.P. Esmein’s (1848-1913) concept of ‘National Sovereignty’ which considers sovereignty to reside in the nation. According to him, sovereignty is beneficial for all and he favoured republican form of government, majority rule etc. He laid great emphasis on internal and external sovereignty and for him sovereignty meant,

“… the will of the nation politically organized. It is legally supreme, but morally bound to protect the liberty of the individuals.”

The state exercises power but its power is curtailed both by international laws and is limited internally as it cannot control ones religious
belief, health etc. the most popular and celebrated of the concept of sovereignty remains the ‘sovereignty of the people or popular sovereignty’. Thus, such was a brief survey of sovereignty equipped with its certain important theories forwarded by European-American scholars of political, social and ethical backgrounds.

(3) CONCEPT OF SOVEREIGNTY IN ISLAMIC THOUGHT:

The two important precepts of Islam concerning the area of sovereignty are ‘Tawhid’ and ‘Equality’. Islam believes in the sovereignty of God the Qur’an lays down that all power and authority in totality belongs to God and Him only. Islam does not believe in polytheism or presence of more than one sovereign as it would leads to disorder and chaos.\textsuperscript{114} It states that, “Had there been more gods (in heaven and earth) then there would have been chaos indeed.”\textsuperscript{115}

Also Islam believes in perfect equality that is in a classless society maintaining that every individual is equal to the other. Prophet Mohammad in his Sermon of Farewell addressed to a large mass of Muslims declared that there would be no distinction between an Arab and a non-Arab and no distinction between their statuses.\textsuperscript{116}

Though Islam believes in sovereignty of God, His authority is exercised through the agency of man. The exercise of this political power entails a number of responsibilities. The delegates needs to follow Sunnah or Islamic law, should consider themself a mere trustee and that everything belongs to God and his followers and is entailed to do good deeds.\textsuperscript{117} All these things were illustrated to us by the life and rule of Prophet Mohammad and His immediate successors who lived the simplest and most selfless of life. This lack of autocracy and presence of morality stressed in Islam
segregates it from the concept of sovereignty present in the West. Now let us briefly see what are the basis of Islamic Polity based on Sovereignty.

Any student of political philosophy must understand that Islamic political system is based upon the Holy Qur’an and the traditions of the Prophet. Muslim society that came into being with the advent of Islam and the state that emerged at Medina later on do encapsulate certain clear-cut and distinct principles. Pertinent among them, and essential to our present discussion, are tabulated as hereunder:

1. According to the holy Qur’an sovereignty belongs to God (Allah) alone and the Islamic state is in fact a vicegerency, with no right to exercise authority except in subordination to and in accordance with the Law revealed by Allah to His Prophet (Muhammad)(s) (See al-Qur’an: IV:59, 105).

2. All Muslims have equal rights in the State regardless of race, caste, colour or speech. No individual, class, group, clan or people is entitled to any special privileges, nor can any such distinction determine anyone’s position as inferior.

3. The Law (Shari’ah: a composition of the Qur’an and Sunnah or the authentic practice of the Prophet) is the Supreme Law and everyone from the lowest situated person to Head of the State is to be governed by it.

4. The government, its authority, and possessions are a trust of God and the Muslims, and ought to be entrusted to the God-fearing, the honest, and the just; and no one has a right to exploit them in ways not sanctioned by or abhorrent to the Shari’ah (see al-Qur’an: IV: 58).
5. The Head of the State (call him Caliph, Imam or Amir) should be appointed with the mutual consultation of the Muslim intelligentsia and their concurrence. He should run the administration and undertake legislative work within the limits prescribed by the Shariah in consultation with them.

6. The Caliph or Imam or Amir is to be obeyed ungrudgingly in whatever is right and just (ma’ruf), but no one has the right to command obedience in the service of sin (ma’siah).

7. The least fitted for responsible positions in general and for the Caliph’s position in particular are those that covet and seek them.

8. The foremost duty of the Caliph or Imam and his government is to institute the Islamic order of life, to encourage all that is good, and to suppress all that is evil.

9. It is the right, and also the duty, of every member of the Muslim community to check the occurrence of things or events that are wrong and abhorrent to the Islamic state.\textsuperscript{118}

10. The Imam or Amir must behave fairly and justly with everyone regardless of his religion, section, class or geographical division. Non-Muslims’ rights must be specially taken care of, as the Holy Qur’an accords them full freedom in matters of faith, economic activity, property, social security and preservation of their culture and traditions.

11. The Imam or Amir must also take care of the given rights to the women, underprivileged sections and prisoners of war (POW). No physical or mental torture should be given to the prisoners of war as Islam grants special rights to such people.
The *Imam* or *Amir* should behave objectively with every citizen of the State and there must not be any type of personal or emotional attachment or apathetic attitude while awarding reward or punishment to anyone according to his deeds. He should encourage and appreciate the doers of the good and discourage and warn the evil doers. Every action of the Amir or any other citizen must be under the Will of God and the practice of the Prophet Muhammad(s).\textsuperscript{119}

**4) SOVEREIGNTY AND CONTEMPORARY WORLD:**

Sovereignty in contemporary in world scenario has gained new meaning and focus with new interests springing up from sundry scholars and different trends of international relations. International relations is related to the study of foreign affairs and global issues among states, non-government organizations (NGOs), multinational companies (MNC) etc wherein international relations deal with state sovereignty, globalization, economic development, foreign intervention and so on.

With time with the coming of interdependent states into existence new laws related to peace and war got developed and its inevitable outcome was the formation of international laws. The international laws in this early phase of interdependence was based on Hugo Grotius (1583-1645) doctrine that all state are equally sovereign and interdependent and that the right of the state is absolute over the entire territory or area. This doctrine formed the basis of peace of Westphalia.\textsuperscript{120} The concept of sovereignty as we know came into existence with this Peace of Westphalia of 1648. Before it in the medieval age political organization did exist but it was based on religious order. With Westphalia came a legal concept of sovereignty which gave the state supreme, unlimited and absolute power making it independent both
internally and externally. This concept with time spread far and wide from Europe to America, Africa and Asia through the process of colonization. The Westphalian concept of sovereignty is basically gave rise to absolutism but with French and American Revolution came popular sovereignty with people being the sovereign.\textsuperscript{121} Those territories who built in the concept of nation state came to be known as modern, those who did not incorporate it were termed pre-modern while those who moved beyond the concept were considered post-modern.

From the classical notion of sovereignty we have the reached the modern notion of sovereignty. During recent times several factors from, ‘growth of powerful associations, comparative failure of parliamentary democracy’ led sovereignty to be viewed and conceived in a different manner. The main forces of change are Marxism, positivism, Neo-Kantianism, pragmatism and so on.\textsuperscript{122} Marxism in its diverse forms grounds its theory and practice on the economic and cultural theory of Karl Marx (1818-1883) and his fellow thinker Frederick Engels. According to this school of thought sovereignty resides in that class in a community which owns the instruments of production that is with the capitalistic class. It is this class which employees the rest of the community as labour. The product of the labours of the working class belongs to the owner class and the owners justify their position on the basis of religion, ethics, law, art and other sources. They develop a system which considers every thing in their benefit to be legitimate and legal and the rest to be morally unlawful and wrong. The Marxist advocate for putting an end to such a system of capitalism to attain freedom in a community.\textsuperscript{123}
In the ‘post-modern’ state, the idea of sovereignty as stated in Westphalian system got degenerated and a new system of shared sovereignty emerged. In this notion of shared sovereignty or what may be called post-modern sovereignty, loyalties did not remain limited to the state or even disappeared from the state and new organizations such as European Union (EU) emerged. In this post-modern world order the three very basic concepts of state namely authority, territory and nation got shaken. Post-modernists considered authority as an obstacle, one that is oppressive and harmful and therefore unnecessary. For them territory is changeable concept since it is only the part of human identity and finally, nation for them is an abstract and not a concrete concept. A power transfer slowly started to take place from nation to supra-nation bodies like European Union and we today witness the coming up of new communities which are beyond the control of state.\textsuperscript{124}

Globalization has made state boundaries porous and state is unable to control trans-border movement of people, goods and capital. The classical notion of sovereignty being unlimited, absolute in nature within its territory is slowly disappearing. With growing interdependence especially since 1970s has made state to lose its full control.\textsuperscript{125} Power today has started slipping into the hands of new authorities. We have entered into the era of ‘shared sovereignty with coming of shared system of mutual surveillance and working to prevent wars’.\textsuperscript{126} In phase of economy we have new policing power like World Trade Organization (WTO) and International Monetary Fund (IMF) which are exercised by global bodies which have made it impossible to have absolute authority within the territory. A democratic national sovereignty has got established in twentieth century wherein democratization of foreign affairs has taken place.\textsuperscript{127} Today it has become
impossible for government to work without due consideration of people and their interests at large. An evolution has occurred with democratization in warfare, communication and economy. With vast migration of people across boundaries the concept of homogenous state has broken.

Seeing this present scenario a vast and wide spectrum of opinions has come into fore front. This spectrum ranges from those who consider sovereignty to be modified to those who consider it monolithic that is an organization which is too large, slow to change and one which does not cater to individuals needs. Today sovereignty is viewed in different lights with Liberal theorists like Fernando Jason (1901-1981) and Robert Keohane viewing it in the back-drop of human rights and humanitarian intervention. Richard Ashley (1902-1974) and Jeans Bartelson, the post-modern theorists trace its genealogical aspect while Martin Laughlin (1833-1894) and Gerry Simpson view the basic tenet and historical movement of the concept.128

Richard Ashley, the post-modern theorist calls sovereignty ‘metaphysical deceit’.129 Michael Hardt and Antonio Negri in ‘Empire’ consider popular sovereignty as:

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Really nothing more than another turn the screw, a further extension of the subjugation and domination that the modern concept of sovereignty has carried it from the beginning.130
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As Cyril Edwin Mitchinson Joad states:

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The doctrine of sovereignty is… largely obsolete, and it is the prevalence of Marxist theories of the State which have made it so.131
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Susan, in ‘The Retreat of the State’, considers the rise of global financial network, Multinational Corporation, regional trading blocs and expansion of the world economy has rendered the nation state as obsolete.132
With globalization since the state boundaries have become permeable it is advocated by few that ‘the line of demarcation between internal and external existence of the state has become blurred’. In views of these writers and theorists to meet the greater general goal of emancipation, meet out challenges of human rights, environmental problems, and cultural identity sovereignty should be discarded.

The constructivists treat sovereignty in a different manner. For them the classical concept of sovereignty as a fixed liniment of international system creates problem in the present scenario. They view sovereignty as endogenous rather than exogenous to the international system. They consider that sovereignty is a social fact that is constructed and reproduce over time by the practices of the state themselves. Hence sovereignty for them is not a fixed element of international politics but rather one that changes owing to changing behaviour and expectations of the states. Their approach highlights how the meaning of sovereignty has changed over time and how the states acted differently according to the varying prevailing conceptions of sovereignty that have existed.

In ‘Politics without Sovereignty’ various critics have tried to establish that,

“… today’s politics without sovereignty is a constrained and evasive politics, marred by limited sense of political possibility and organized around the highly un-accountable exercise of power.”

They try to establish the fact that those theorists and scholars who deny the relevance of sovereignty have fail to offer any other better alternative to it. Sovereign state remains and in future will remain the best institution to establish clear lines of political authority and accountability.
They do focus on the limitation of sovereignty that though it gives ample opportunity and freedom to individual to participate in politics for building of good life but it is within their limited boundaries. It does not allow political self-assertion in international affairs because it will mean curbing sovereignty of other states. They emphasized that,

“The sovereign state, however imperfect, still provides the best framework for the organization of collective political life.”^{136}

In a powerful essay entitled ‘Sovereignty and the Politics of Responsibility’ Philip Cunliffe tries to show how the new dimension of ‘sovereignty of responsibility’ added to sovereignty curbs its very existence. According to ‘sovereignty of responsibility’, the sovereign state has not only the responsibility to protect the people within its jurisdiction but has also the duty to prevent of suffering the people that is to have respect for human rights. First we need to focus on what sovereignty provides us. A sovereign state gives us a stable society, a society which is formed on the will of people and where we have a recognized source of power which can be held accountable. One of the basic, inherent and innate aspects of sovereignty is its supremacy. The idea of ‘sovereignty of Responsibility’ goes completely contrary to this notion since it holds that if a country does not respect the human rights of the people the other states or as it may be referred to the international community gains the legitimate right to revoke its sovereignty. By revoking the sovereignty of the state we go against the sovereignty of the people since majority of the nations today have popular sovereignty. Even if popular sovereignty is not found in a nation, no state can be run without the consent of the people. Philip Cunliffe puts it very correctly,
“… the international community is not an entity sufficiently stable or coherent that it can replace the sovereign state. The international community cannot provide a standing institution through which a polity can exercise its collective agency. It is the abstraction of the international community… that makes the exercise of power remote and unaccountable to a much greater degree than the sovereign state.”

Thus in his essay he points out towards the failure of humanitarian intervention and the sovereignty of responsibility and establishes the fact that sovereignty however imperfect is essential for the proper exercise of power and its accountability. The failure of international intervention has been witnessed by us in Iraq (1991) and Somalia (1993).

The claims of sovereignty being absolute, unlimited and indivisible being with the notion that a government can indulge in war with any state it wishes to or can mistreat its people, can indulge in genocide, domestic atrocity is wrong. Tracing the development of notion of sovereignty from Bodin and Hobbes we find that their notion of absolute sovereignty did not imply freedom from all moral constrain and laws. As Bodin points out:

For if we say that to have absolute power is not to be subject to any law at all, no prince of this world will be sovereign, since every earthly prince is subject to the laws of God and of nature and to various human laws that are common to all peoples.

A careful examination of the theories of sovereignty makes us realies that the basic principle on which they based their concept of sovereignty is to establish peace and provide security to people. Thus to consider sovereignty as obsolete on humanitarian basis is completely wrong. In contemporary scenario we see continued claims to statehood and emergence of twenty new members of United Nations. Thus, we may conclude, “Sovereignty is indefensible and yet… it remains indispensable.”
This can be out rightly witness by the fact that though sovereignty has its limitations in present world order but the number of sovereign state is on an increase.

After examining the basic features and attributes of sovereignty we may conclude that certain aspects of sovereignty are indeed needed for democracy to prevail. The three important aspects of sovereignty which greatly influences the democratic set up within a state are the notions of legal sovereignty, domestic sovereignty or internal sovereignty and Westphalian sovereignty or external sovereignty. The legal concept of sovereignty implies recognition of sovereignty of a state by the international community. This recognition forms one of the prerequisite for democracy to prevail. Internal sovereignty or domestic sovereignty implies total control of the state over its decision making processes and resources. This forms an essential condition for democracy to survive since democratic setup needs autonomy to uphold and enforce political rights and rule of law within its territory. The Westphalian sovereignty clearly implies that the state should be from foreign interventions in matter of its domestic affairs. This again reflects on the autonomy of state to take its own decision. Democracy needs representation and accountability which are hampered by external interventions.

Thus, sovereignty constitutes of a number of attributes which when present democracy may prevail but the absence of certain key elements of sovereignty undermines the very survival of democracy.
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