"State authority has leaked away, upwards, sideways and downwards. In some matters, it seems even to have gone nowhere, just evaporated. The realm of anarchy in society and economy has become more extensive as that of all kinds of authority has diminished"

- Susan Strange

Men do not wield or submit to sovereignty. They wield or submit to authority or power. Authority and power are facts as old and ubiquitous as society itself; but they have not everywhere and at all times enjoyed the support or suffered the restraints which sovereignty, a theory or assumption about political power seeks to construct for them.\(^1\) Sovereignty is a concept, which men in certain circumstances have applied - a quality they have attributed or a claim they have counterposed to the political power.

The term ‘Sovereignty’ is derived from Latin word, ‘Superanus’ meaning supreme. Thus, sovereignty denotes supremacy or supreme power of the state.\(^2\) The origin of the concept of sovereignty are closely linked with the nature, the history of state. In fact the modern theory of state was perfected only when the concept of sovereignty was introduced to it.\(^3\) ‘The concept of ‘sovereignty’ implies a theory of politics which claims that in every system of government there must be some absolute power of final decision exercised by some person or body recognised both as competent to decide and as able to enforce the decision. This person or body is called the sovereign’.\(^4\) It means that in every independent state

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\(^3\) Supra no. 1, p.2.
there is an ultimate authority that is final and the highest, beyond which there is no appeal.

Sovereignty has long been considered the grundnorm of international law. It is the power or authority, which comprises the attributes of an ultimate arbitral agent – whether a person or a body of persons – entitled to make decisions and settle disputes within a political hierarchy with some degree of finality.5

The concept of ‘sovereignty’ was formulated in conjunction with the founding of the modern state system in the 16th and 17th centuries. By the end of the 15th century there were up to 500 semi-independent political units in Europe, although the trend was towards centralization under monarchs. At the same time, these units saw themselves as the municipal embodiments of a universal (Christian) community.6 For most civilizations sovereignty has not been a defining characteristic of political life. The notion would have meant little to the tribal communities of Africa and Oceania organised primarily around ties of lineage and kinship. The multi-state system of ancient China with its subtle but fluid relationship between the monarchy and feudal lords and princes could scarcely be described as a system of sovereign states.7 The Greek city states, frequently engaged in war over territory, trade and personal rivalries were not internally organised in accordance with the logic of sovereignty. The ancient Greeks did not differentiate between state and society and the ruled were citizen – governors ... who were simultaneously subjects of state authority and creators of public rules and regulations.8

7 Ibid. p.12.
Conditions in the middle ages were not favourable to the development of the concept of sovereignty because emperors powers was limited on the one side by the rights of the feudal lords, and on the other side by the claims of the pope to superior authority. This is in sharp contrast to the feudal times, when the state law was subordinated to the universal and eternal order.

Medieval Europe was a cosmopolitan patchwork of overlapping loyalties and 'allegiances geographically interwoven jurisdictions and political enclaves. The hegemonic principles, which underpinned growth of the Egyptian, Persian and Roman empires bore little resemblance to the modern notion of sovereignty.

The political communities constituted by German people of the Dark Ages or those reflected in the kingdoms and principalities of medieval Europe were not sovereign states. Harold Laski notes, however, that there is historically no limit to the variety of ways in which the use of power may be organised. Mary Catherine Bateson, sees more room for human agency and change: The state is not a fact of nature, however, but the solution to the problem – a modern and western solution, recently generalised to the rest of the world, which is, in turn, itself a source of problems.

Europe is regarded as the cradle of the modern sovereign state. In which both the rulers and the ruled were subject to universal legal order which reflected and derived its authority from the law of God. As Robert

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9 Camilleri and Falk, Supra no. 6, p.12.
Sack described the feudal universe, ‘the Christian community of the church transcendent was associated with the fixed and the eternal, while earthly cities were short lived and changing.\textsuperscript{12} In the feudal system there was no demarcation between domestic and external spheres of organisation, no dividing line between “public territories” and private estates. This system enjoyed considerable level of coherence and unity by virtue of common legal, religions and social traditions and institutions.\textsuperscript{13} The phenomenon and the concept of sovereignty are best understood through history since they originated as an expression of the search for a purely secular basis for authority amid the new state organisations in Europe of the 16\textsuperscript{th} and 17\textsuperscript{th} centuries.\textsuperscript{14}

For three or four centuries, and certainly by the Peace of Westphalian ending thirty years war, state sovereignty has been the guiding principle of international relations. The state has been the way people have organised themselves, and this has been seen as natural or inevitable end product in the evolution of International relations.

By the sixteenth century the Renaissance in art, literature and philosophy were important in the secularization of life and corresponding decline in the spiritual and temporal authority of the church. The revival of Roman law corresponded to the needs of the absolutist state and spread of capitalist relations in towns and country.\textsuperscript{15}

As Perry Anderson has pointed out, the absolutist state replaced the system of feudal domination, which relied on the institution of serfdom.

\textsuperscript{14} \textit{International Encyclopaedia of the Social Sciences}, Supra no. 4, p.77.
\textsuperscript{15} Perry Anderson, Supra no.13, p.24.
The apparatus of legal and political coercion had moved upwards towards a centralised militarised summit – the absolutist state.

The concept of sovereignty is at the core of change and turbulence in global politics today. It is under assault from many quarters – the environment, communications technology, nuclear weapons, massive movements of people across borders, and increasing acceptance of human rights norms around the world and these have radical implications on the concept of sovereignty.

Historians argue as to when sovereignty became a firmly established fact of political life. Some focusing on the late 15th century, others on the peace of Augsburg, 1555, and still others on the Treaty of Westphalian, 1648. Sovereignty in both theory and practice was closely related to the prevailing social and economic environment of 16th and 17th century Europe. According to Hinsley sovereignty is an inevitable and virtually irreversible stage in the evolution of political institutions, or a necessary culmination of the integration of state and community.16 As Laski argues, the sovereign state represents not an absolute but an historical logic.17 And the idea of sovereignty was firmly entrenched by 1648.

Divergent Perspectives on Theory of Sovereignty:

F.H. Hinsley characterises sovereignty as 'final and absolute authority in the political community, and notes that it has been intimately associated with the state; and it could not after all be divorced from the state. He talks about the 'inexorable' consolidation of the state and the 'victory of the concept of sovereignty'.18

Roman law, which helped to undermine the heritage of feudal ideas, was undoubtedly one of the most important intellectual influences on the

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16 F.H. Hinsley, Supra no.1, p.18.
17 Harold J. Laski, Supra no. 10, p.48.
18 F.H. Hinsley, Supra no.1, p.215.
emerging theory of state. In medieval Europe priority was accorded to
divine or customary law, the Roman mind tended to ground law in the
community or its rulers. The state was understood as summa protesta,
a Latin phrase denoting a quality of mystique and majesty, which in
sixteenth-century French philosopher, Jean Bodin, would use
interchangeably with sovereignty. The intricate system of Roman law was
based on the simple but fundamental principle that a political community
had the inherent power (or imperium) to exact unlimited obedience from
its citizens.

The European revival of Roman law is clearly seen in Machiavelli’s
treatment of the state, which offers a descriptive commentary on the
Italian city-states of his own day but also a forecast of the absolutist
states that were in making. It was left to subsequent theorists, notably
Bodin and Hobbes to equate the state with the exercise of supreme
authority within a given territory or society. Institutions and individuals in
charge of the state represented the highest power in the land, acting as a
court of last resort and holding an effective monopoly on the use of force.

The theory of sovereignty, then, in so far as it conceives of the state
as quintessentially a structure exercising absolute power and authority in
society. Bodin’s De La Republique was first published in 1577 at the
height of civil war between Catholics and Huguenots. His thesis that a
central authority should wield unlimited power was in part an attempt to
restore order and security to the deeply divided political society in France.
He contended that such power had to be given legal recognition. It had to
be endowed with sovereignty. Therefore, he used words ‘souverainete’,

19 Kenneth Dyson, The State Tradition in Western Europe: A Study of an Idea and an Institution,
'majestas' and 'summa protestas' interchangeably. Bodin defined sovereignty as Supreme power over citizens and subjects unrestrained by law. A notion influenced by Roman Law and the familiar doctrines of the ruler's imperium and legibus solutus. God was above the sovereign and the supreme power of the sovereign over all subjects was subordinated to the 'laws of God and Nature'. Bodin suggests that the sovereign was above the people, or as Maritain has argued, separate from transcendent over the people.

Hugo Grotius (1583-1645) Dutch jurist remembered as the father of international law who sought to build a system of international law also made significant contribution to the concept of sovereignty.

Thomas Hobbes (1588-1679) further developed the concept of sovereignty in his The Leviathan in 1651. Hobbes argued that the state was the product of the will of the people and sovereignty is an attribute of the state; laws are nothing but the commands of a political sovereign and there are no legal constraints on sovereignty by the divine or natural laws.

The sovereign enjoyed absolute powers only because the individuals had totally surrendered their powers. Hobbes conceptualised an absolute sovereign power only because of his thorough going individualism. He abandoned the idea of a social contract between the ruler and the ruled and substituted for it a contract in which all individuals agreed to submit to the state. Hobbes describes the outcome of this universal surrender of the right to self-government as a multitude united in one person, a

'commonwealth', a Leviathan. Thus, sovereignty for Hobbes, is undivided, unlimited, inalienable and permanent.

François-Marie Voltaire (1694-1778), like Hobbes favours an absolute undivided sovereign power, which, however, is not despotic. Hobbes separates community and public will but it was Rousseau who subsequently revived the older notion of a community as a corporate fellowship and then endowed it with the unity of will associated with the 'Hobbesian Sovereign'.

Rousseau (1712-1778) in his Social Contract published in 1762, sought to rescue the concept from the constitutional trap while seeking to avoid the authoritarian implications of the Hobbesian thesis. Like Hobbes he argued that state sovereignty was unlimited and indivisible, and that the state was the result of a contract in which all individuals had agreed to submit to its will. He equated the state with the body politic that had been formed by social contract, reducing government, the rulership to a mere commission. For Rousseau the idea of a social contract virtually disappears, for he conceives of the community of citizens as a moral and collective personality in which each member, while uniting himself with all, may still obey himself alone, and remain as free as before. This found expression in the 'general will' and endowed the body politic with absolute power over all its members. Moral authority (or popular sovereignty), at least of a kind, was reaffirmed as the basis of state sovereignty. The prerogatives of the sovereign could not exceed the limits

27 Hinsley, Supra no.1, p.153.
of general conventions. Sovereignty for Rousseau is inalienable and indivisible but vested in the body politic thereby expounding the concept of popular sovereignty, he rules out transfer of sovereignty and accepts the idea that sovereignty originates and stay with people. Rousseau’s authoritarian pronouncements relating to the General will were restatements of heavy arguments in French absolutist thought.

Bentham (1748-1832) argued that sovereignty was not limited by law, but was subjected to moral limitations. He, therefore, insisted that the sovereign should justify his authority by useful legislation with the object of promoting the greatest happiness of the greatest number.

Theories of Sovereignty:

Monistic Theory of Sovereignty:

John Austin (1790-1859): In the nineteenth century, the theory of sovereignty as a legal concept was perfected by Austin an English utilitarian jurist, and an exponent of Monistic Theory of Sovereignty. In his lectures on jurisprudence in 1832, he observed that the concept of legal sovereignty and command theory of law are associated. The state, for Austin, was a legal order in which the specific authority is ultimate source of power. This authority, which issues the commands that are habitually obeyed but which is itself immune to the commands of others, is the sovereign power in the state. Its authority is unlimited. In this theory he asserts that moral character of the law is irrelevant. What matters is its effectiveness. The law is the command of the sovereign, expressing his wish backed by sanctions.

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29 Ibid, p.31.
33 Joseph A. Camilleri and Jim Falk, Supra no.6, p.22.
John Austin and Hans Kelson (1887-1973) are thus leading exponents of logical positivism that advocates the study of actual legal systems and avoids the search for independent justifications in terms of natural law. By establishing a single source of positive law, Austin, put forward a monistic view of law, state and sovereignty.35 The analytical school to which Austin belongs argues that sovereignty rests in a determinate person or body of persons and law emanates from this body. The analytical jurist describes it as a political but not a legal fact. This concern is only with law.36

Pluralist Theory of Sovereignty:

The pluralist theory of sovereignty has been fully developed by J. Neville Figgis, Harold J. Laski, A.D. Lindsay, Leon Duguit, Earnest Barker, Mary Parker Follett and Krabbe. They object to the legal theory of sovereignty as pernicious, wherein the state habitually exercises any sort of authority and insist on the need to properly distribute social authority among various groups.37 The pluralists pointed out that the interdependence of states in the modern world and the internal complexity of advanced industrial states makes the issue of state sovereignty untenable. Lindsay observes, "If we look at the facts it is clear enough that the theory of sovereign state has been broken down.38

The pluralist theory sought to redefine the nature of the state as one of the several associations of human beings operating in society to secure multifarious interests of individuals; it envisages new role for the state as

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35 O.P. Gouba, Supra no. 2, p.67.
37 Sushila Ramaswamy, Supra no.34, p. 175.
38 Ibid. p. 176.
an arbiter over conflicting claims of different associations. It repudiated
the exclusive and absolute claim of the state to an individual's allegiance;
it insists that the state should compete with other human associations to
establish its claim to superior authority. In an age of pluralistic and
democratic government traditional doctrine of sovereignty has come in for
growing criticism.39

**Two Aspects of Sovereignty:**

There are two aspects of sovereignty traditionally conceived - (1)
Internal and (2) External. Internally, states are considered to have
supreme authority within their borders. That is, there are no higher
authorities or entities with the authority to take action within the
territorial limits of the state. The link between 'internal' and 'external'
aspects of sovereignty is non-intervention.40 External Sovereignty
establishes the quality of independence of the state from the control or
interference of any other state in the conduct of its international
relations.41

Robert Keohane distinguishes between two aspects of sovereignty -
'formal sovereignty' and 'operational sovereignty'. The former relates to
autonomy - the legal ability of a state to decide policy for itself - and the
equality between states. The latter concerns a state's actual ability to
implement policy - its effectiveness - which is limited by external
constraints.42

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41 O.P. Gauba, Supra no.2, p.62.
Ruth Lapidoth, makes a distinction between these two types of sovereignty, but does note that 'sovereignty' which includes Keohane’s ‘formal’ sovereignty – can indeed be shared or divided. She argued that there are three elements of state sovereignty (1) the sovereign state is subject to international law, (2) it is not under any other states control, and (3) it is able to exert power.

Lapidoth notes, further, that there are a number of implications for the relations between states of this construction of state sovereignty. (1) all states possess ‘sovereign equality’ (2) states, cannot intervene in the affairs of another state, (3) states have exclusive territorial jurisdiction (4) states are presumed competent (5) states can only be bound by adjudication with their consent (6) states have almost unlimited right to wage war. (7) Positivist international law is the source of binding rules between states, rather than natural law, which is beyond the free will of states. These implications are problematic and lead to the conclusion that the concept of sovereignty is as Leibniz characterised it ‘thorny and little cultivated’.

Globalisation and Sovereignty of Nation-State:

'Sovereignty' has a spatial dimension in that it is premised on the occupation and possession of territory. This spatial dimension manifests itself most clearly in the drawing of territorial boundaries that separate the 'inside' from the 'outside'.

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44 Ibid, p.329.
State Sovereignty is an old concept. In its classical form, it is absolute and without limits. It is a tool of state power and authority, in view of all these, the principles of state sovereignty remained relevant until the current socio-political and economic development which challenges the functional and practical relevance in the new world order.48

David Held, identified five gaps with regard to the concept of sovereignty in the global context. In the economic realm there are forces that actually undermine the power and scope of national states. In the global context markets, role of multinational corporations, (MNCs), increased workforce, mobility and the decisive role of technology and communications, internationalization of production has eroded the state’s capacity to control its own economic future. Economically weak states are under great pressure than before, both from outside and inside.49

The modern world was primarily organised around nation-states as its primary units. Nation-states claimed supreme jurisdiction or sovereignty over a territorial area. In the era of globalisation there are profound changes in all these conceptions. The sovereign power of the nation-state has come to be deeply contested; the conception of the political community remains highly fluid and the notions of territories and borders have radically altered. Globalists think that nation-state has become an anachronism today. Traditionalists assert the continued relevance of the nation state and see the major changes that are underway. The transformalists agree that nation state with sovereignty as its attribute is under going profound transformation.50

The classical regime of sovereignty has been recast by changing processes and structures of regional and global order. The quality of state sovereignty in the contemporary world, both in internal and external relations have fundamentally changed: state sovereignty is no longer absolute.\footnote{Hastings, *International and Comparative Law Review*, Vol.25 (3) Summer 2002, p.372.}

The significance of these developments for the form and structure of national and international politics can be explored by the 'transformationalists' or 'modernist' which account for how the growing global interconnectedness can lead to a decline or crisis of state autonomy and the requirement of nation-states to co-operate and collaborate intensively with one another.\footnote{Robert O. Keohane and Joseph S. Nye (eds.), *Transnational Relations and the World Politics*, Harvard University Press, Cambridge, 1972, p.75.}

From the perspective of globalisation, the modern liberal democratic state is trapped within the webs of transnational forces, and unable to determine its own fate. Globalisation is portrayed as a homogenizing force, eroding 'difference' and capacity of nation-states to act independently in the articulation and pursuit of domestic and international policy objectives. The democratic territorial nation-state seems to face decline or crisis.\footnote{Morse, *Modernization and the Transformation of International Relations*, Boston Scott Press, Boston, 1988, p.22.}

According to Michael Mann, Capitalism, now become global, transnational, post-industrial, 'informational', consumerist, neo liberal, and 'restructured', is undermining the nation-state – its planning, its collective welfare state, its citizens sense of collective identity. New 'global
limits', especially environmental, population threats, terrorism and 'human rights' are producing a new 'risk society' to be handled by nation-state alone.54

Until the second world war nation-state was considered as primarily military actor which, got undermined with the emergence of power blocks, led by US and USSR through their military alliances like NATO and Warsaw pact. The disintegration of USSR and collapse of communism, which led to the dissolution of Warsaw Pact. The US is the world's only 'superpower'. Thus, the proliferation of international and regional organisations has also moderated the idea of Nation-state sovereignty.55

Nation-states were once the masters of markets, now it is the markets that on many crucial issues are the masters over the government of states. And the declining authority of states is reflected in a growing diffusion of authority over other institutions and associations.56 Thus, the impersonal forces of world markets, integrated over the post war period more by private enterprise in 'finance', industry, and trade than by co-operative decisions of governments, are now more powerful than the nation-states. According to John Ralston, Saul, The power of the nation state is waning, such states as we know them may even be dying in the future, power will lie with global markets'.57

Hence, the classic regime of sovereignty has been recast by changing processes and structures of regional and global order. States are locked

55 Sushila Ramaswamy, Supra no.34, p.179.
into diverse, overlapping political and legal domains National Sovereignty and autonomy are now embedded within broader frameworks of governance and law in which states are increasingly but one site for the exercise of political power and authority. It can be argued that owing to globalization, the Westphalian system is already become past history. The Westphalian norm of sovereignty is no longer operative; nor can it be retrieved in the present globalising world. The concept of sovereignty continues to be important in political rhetoric, especially for people who seek to slow and reverse reductions of national self-determination in the face of globalization. However, both juridically and practically, state regulatory capacities have ceased to meet the criteria of sovereignty as it was traditionally conceived.

A number of material developments have undercut state sovereignty. Today a nation-state is unable by itself to control issues like global transnational companies (TNCs), ecological or environmental issues, satellite remote sensing, global stock and bond trading, computer data transmissions, nuclear fallout, internal access and telephonic calls do not constraint a nation-state to halt at frontier checkpoints. In the face of huge offshore bank deposits, transworld electronic money transfers, states have lost sole ownership hallmark of sovereignty. States have affected the manner and rate at which they have lost sovereignty in the face of globalization, but they have not had the option to retain comprehensive, supreme, unqualified, exclusive rule over their respective territorial jurisdictions. According to John Baylis and Steve Smith: Nation – state

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60 Ibid. p.23.
are influenced by the process of globalisation in three ways (1) under the influence of globalization the constituencies of the state have been changing i.e., the sovereign state normally protected and promoted domestic and internal interests thus acting as a ‘barrier against external intrusions. In contrast, post-globalisation sovereign state often advances transborder, as well as national causes (2) large-scale globalisation has made states to engage in more frequent and more intensive multilateral consultations for example, G–8 to exchange views, coordinate policy matters on macroeconomic matters (3) accelerated globalization may have reduced the chances of major interstate war.61

Thus globalisation has presented a fundamental challenge to Westphalian states-system and its central principles of state sovereignty. Though globalisation has brought the demise of sovereignty, it is by no means dissolving the state.

Therefore, the nation-state has become an unnatural, even dysfunctional unit for organizing human activity and managing economic endeavour in a borderless world. It represents no genuine, shared community of economic interests; it defines no meaningful flows of economic activity. The boundaries.... are drawn by the deft but invisible hand of the global market for goods and services. They follow, rather than precede, real flow of human activity.62

According to David Potter seven complications have been identified relating to the general idea of the relative autonomy of the state within the global economy. They are:

1) The word ‘state’ needs careful handling; states can take quite different forms.

61 Jan Aart Scholte, Supra no. 59, p.23.
2) State autonomy is not the same thing as state power. 3) State can be seen as more and less autonomous at the same time if no distinctions are made between different dimensions of autonomy. 4) An institution within a state may be more autonomous than another institution. 5) Amounts of state autonomy can vary through time. 6) Amounts of state autonomy at any one time can vary depending on the state’s location in the global economy. 7) All states require at least some autonomy in order to perform important functions for global economy.63

Camilleri and Falk talk in terms of a sovereignty ‘discourse’ which is a way of describing and thinking about the world in which nation-states are the principal actors; the principle centres of power, and the principle objects of interest. It has marginalised other ways of thinking about social arrangements and the locus of power and authority. It is a way of speaking about the world, a way of acting in the world. It is central not only to the language of politics but also to the politics of language. Sovereignty as both idea and institution, lies at the heart of the modern and therefore, western experience of space and time.64 It is integral to the structure of western thought with its stress on dichotomies and polarities, and to a geographical discourse in which territory is sharply demarcated and exclusively controlled.65 Constructivism is a way to counter the marginalisation of alternatives, a way ‘to render’ “the invisible” visible.66

66 Ibid. p.33.
As a state has become reified, there is a need to denaturalise the state. Allott observes that sovereignty is not a fact of the physical world... Sovereignty is not a fact but a theory.

According to Camilleri and Falk sovereignty may not be the last word on the subject. Given far reaching transformation of the social and political landscape we have witnessed this century, and especially these past several decades, there is a pressing need to rethink the concept and practice of sovereignty.

Anderson ties these transformations to adopting a post modern world view: Therefore, globalisation processes require us to renegotiate our relationship with familiar cultural forms, and remind us that they are things made by people; human, fallible things, subject to revision, Globalism and post-modern world-view come in the same package; we will not have one without the other.

Secretary-General Boutros-Ghali stated in his 1992 report to the General Assembly entitled "An Agenda for Peace" that although respect for basic sovereignty continues to be important, the era of absolute and exclusive sovereignty has come to an end. He also observed that despite the doctrine of absolute and exclusive sovereignty extending over a few centuries, state sovereignty ha never been so absolute in reality as claimed in theory.

69 Camilleri and Falk, Supra no. 6, p.11.
71 Shunji Kobayashi, State Sovereignty In the 21st Century: Political and Strategic Implications in State Sovereignty In the 21st Century concept, Relevance and Limits, IDSA and ICWA publications, Delhi, 2001, p.25.
The focus will now shift to why 'not all is well with the theory of sovereignty' and why the analytic validity of sovereignty is declining.\textsuperscript{72} We are at an 'historical breakpoint'\textsuperscript{73} brought on by a post modern 'axial upheaval', where our traditional concepts no longer work but are instead, being reforged on the crucible of history.

Since the interactions between states increase, which include diplomatic, social, economic, and cultural activity, communications, concerns over environment problems - Nation states are becoming increasingly interdependent. According to Walker and Mendlovitz "The very notion of state system implies that states are already interdependent in some sense."\textsuperscript{74} Increasing interdependence is cited as a threat to state sovereignty. Kaohane while distinguishing between 'formal' and operational sovereignty, maintains that interdependence challenges states' abilities to carryout national policy - That is operational sovereignty - but not states' formal sovereignty. Operational sovereignty is limited by international agreements, but entering into those agreements is an exercise of (formal) sovereignty. However, loss of policy effectiveness occurs without a state's agreement, leading them to willingly give up some operational sovereignty by signing an international agreement or joining an international organisation.\textsuperscript{75}

States therefore, make sovereign choices to engage in collaborative activity, contrary to this, one can contend that states do not have a choice regarding whether to join or not such arrangements. Mark Zacher uses

\textsuperscript{72} Camilleri and Falk, Supra no. 6, p.3.
\textsuperscript{74} R.B.J. Walker and Mendlovitz, (eds.) Contending Sovereignties: Redefining Political Community, Boulder Co.: Lynne Rienner Publishers, 1990, p.3.
\textsuperscript{75} Robert Keohane, Supra no.42, pp.1-9.
the concept of ‘enmeshment’ to describe this condition states are becoming increasingly enmeshed in a network of interdependencies and regulatory / collaborative arrangements from which exit is generally not a feasible option.\textsuperscript{76} This affects not only operational sovereignty but also the autonomy to make rational decisions. “From 1951 to 1986 the number of IGOs increased from 123 to 337 and number of international NGOs increased from 832 to 4649. And there were 100 international conferences per year, and during 1970s there were around 3000 per year. Finally between 1946 and 1955, 6,351 bilateral treaties entered into force, while between 1966 and 1975, 14,061 treaties did so”.\textsuperscript{77} Therefore, Nation-states are realizing that there are issues, which they cannot deal with by themselves; this realisation is leading them to undermine their sovereignty.

As states become enmeshed and realize that their well-being depends on others, James Rosenau posits that global culture will expand and become all encompassing: Global culture – that realm of norms which are shared on a world wide scale – may be neither fixed nor stagnant. As technology shrinks the world and as value systems within the subcultures are exposed to the dynamics of life in a post industrial order, global culture seems likely to undergo transformation, to encompass broadened conceptions of self interests pursued by others.\textsuperscript{78} Whatever the explanation, the expansion of human rights ideas on a world


\textsuperscript{77} Ibid, p.65-66.

wide scale can be traced to the fact that the world is in many respects being transformed into one society.\textsuperscript{79}

Gabriel Almond stresses 'the impact of international factors on internal political structure and process.\textsuperscript{80} He refers to Hintze's general law, which holds that the spirit and essence of internal politics is dependent on the external conditions of the state.\textsuperscript{81}

Theorists of widely diverging ideological persuasion have recognised the declining efficacy of state action, and the emergence of issues, relationships and institutions that dissolve the national-international divide. Numerous concepts, including aggregation, interdependence, world society, world order and world economy, have been advanced as a way of opening a window on the globalization of human affairs, of reassessing the meaning and function of sovereignty.

Jessica Tuchman Mathews argues that environmental strains that transcend national borders are already beginning to breakdown the sacred boundaries of national sovereignty, previously rendered porous by the information and communication revolutions and the sudden global movement of financial capital.\textsuperscript{82} Therefore, global processes, both natural and human made, and demonstrating in a most dramatic fashion that the permeability of artificial, socially constructed borders between states are undermining the sovereignty.\textsuperscript{83}


\textsuperscript{81} Ibid, p.245.

\textsuperscript{82} Mathews Jessica Tuchmann, Redefining Sovereignty; \textit{Foreign Affairs}, (68), Spring, 1989, p.162.

As Wriston notes, the velocity of change is so great in all aspects of science, technology, economics and politics that the tectonic plates of national sovereignty and power have begun to shift.\textsuperscript{84}

The computer revolution has made the manipulation of data and access to vast amounts of information almost instantaneous.\textsuperscript{85} As these technologies have decentralised knowledge they in turn have helped to decentralise power. Ordinary citizens are now able to gain access to vast amounts of information beyond their borders through unregulated communications.

As Gamani Corea notes that: Third world countries are one by one becoming ‘ungovernable’. – They are not being able to respond adequately to the expectations of their people; expectations aroused by the media, by communications, by education ... turmoil and tension in the Third World will eventually spill over national boundaries and threaten and endanger the very fabric of global peace and stability.\textsuperscript{86}

A similar situation might be reported as ‘revolution via modem’ as the ubiquitous internet becomes increasingly uncontrollable. The electronic spread of information can fuel unrest almost anywhere. States are powerless to stop this; The sovereign laws and regulations have not adjusted to the new reality,\textsuperscript{87} nor may they be able to adjust.

Thus, the control of territory, which has been an important aspect of sovereignty, may diminish in importance; as the information revolution makes the assertion of territorial control more difficult in certain ways and

\textsuperscript{84} Wriston, Walter, B, Technology and Sovereignty, \textit{Foreign Affairs}, (67), winter, 1988-89, p.75.
\textsuperscript{85} Ibid. p.167.
\textsuperscript{86} Gamani Corea, Global Stakes Require a New Consensus; \textit{ifda Dossier}, 78 July / September 1990, p.77.
less relevant in others. The nature and significance of sovereignty are bound to change.\textsuperscript{88}

Technology is not only undermining the authority of the state on the individual level; control over the realm of economic transactions is also slipping from the grasp of the state as its borders become increasingly permeable. Global communication, which allows individuals and corporations to transfer huge amounts of capital across state borders without interference from states. Thus information becomes the most valuable commodity and the 'information standard' replaces the gold standard and Britton Woods agreements, governments do not have the power to control their currencies.\textsuperscript{89} Thus, not only is operational sovereignty being undermined, the sovereign ability to decide whether or not to play the game has also disappeared, leading to what Wriston calls the twilight of sovereignty.\textsuperscript{90}

Changes in communications, transportation and production technologies have also deterritorialized production, leading to a globalization of production and allowing TNCs to supersede the traditional political jurisdictions of national scope.\textsuperscript{91}

In the Third World, the weak developing states are frequently at the mercy of TNCs for foreign capital and technology, which in turn allow these TNCs to have free reign of the country in some respects plundering them and exporting the profits. However, in the words of Robert Jackson,

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\textsuperscript{88} Wriston, Supra no. 85, p.7.
\textsuperscript{89} Wriston, Supra no. 82, p.71.
\textsuperscript{90} Wriston, Supra no. 85, p.xii.
\end{flushright}
Third world states do not have control over TNCs especially in granting initial access to the territory.92

Once TNCs are inside the country they frequently have been able to evade any meaningful controls. And indebted third world states are frequently beholden to the World Bank and IMF for funds thus further externalizing control over important economic and social policies and undermining sovereignty. In order to coordinate a global economy, power and authority have been relocated partially, away from states control to TNCs and International organisations. The sovereign state, though it remains a key instrument for the co-ordination and expansion of the productive process on a global scale, can no longer perform this function single handedly. More importantly, the very performance of this function requires the state to act in ways that weaken its claim to sovereignty.93

States are also finding themselves unable to adequately ensure security because ephemeral borders have become increasingly permeable to outside threats. Technological advances created weapons with destructive power which threaten the very existence of the human race and states are powerless to counter these weapons. Governments have entered into various agreements and alliances like NATO, Warsaw Pact, Helsinki Accords to help counteract and defuse such threats. These agreements also hinder some states policy-making abilities since they have to take into account wishes of their allies. Thus, international institutions can directly intrude on state's sovereignty. Thus international agreements are 'acts of sovereignty' and IGOs are premised on the existence of sovereign states.94

93 Camilleri and Falk, Supra no. 6, p.98.
As Camilleri and Falk note: 'a great many bilateral and multilateral arrangements - some formal, other informal - have considerably diluted the logic and political force of territorial demarcation.\textsuperscript{95}

**Globalisation and Sovereignty of India:**

The tremendous change that took place globally in the recent past, necessitated India to incorporate corresponding changes in its domestic economy to adapt itself to the rapidly changing environment.\textsuperscript{96} India started thinking in terms of the global economy and global market.

These developments are often referred to as a part of a process of 'globalization'. Globalisation in this context implies two distinct phenomena. First, it suggests that political, economic and social activity is becoming world wide in scope. And secondly, it suggests that there has been an intensification of levels of interactions and interconnectedness among the states and societies which make up international society.\textsuperscript{97}

Politics unfolds today, with all its customary uncertainty, contingency and indeterminatedness, against the background of a world permeated and transcended by the flow of goods and capital, the passage of people, communications through airways, and space satellites.\textsuperscript{98} The significance of these developments can lead to a decline or 'crisis' of state autonomy in India, and the requirement of nation-state to cooperate and collaborate intensively with one another.

\textsuperscript{95} Camilleri and Falk, Supra no. 6, p.142.
Broadly, state sovereignty in India is, affected by the waves of globalisation in different ways they are:

(1) With the increase in global interconnectedness, the number of political instruments available to government and the effectiveness of particular instruments shows a marked tendency to decline.\textsuperscript{99} This is because of the loss of wide range of border control, which formerly served to restrict transactions in goods and services, production factors and technology, ideas and cultural interchange.\textsuperscript{100} The result is a decrease in policy instruments.

(2) India can experience a further diminution in options because of expansion in transnational forces and interactions, which reduce and restrict the influence. The flow of private capital across borders can threaten anti-inflation measures, exchange rates and governmental policies.\textsuperscript{101}

(3) In the context of highly interconnected global order, many of the traditional domains of state activity and responsibility cannot be fulfilled without resorting to international forms of collaboration. The demands of the state, faced with a whole series of policy problems, have increased and these cannot be adequately resolved without the states and non-states co-operating with one another.\textsuperscript{102}

(4) Accordingly state has to increase the level of political integration with other states or increase multilateral negotiations, arrangements and institutions to control the destabilizing effects that accompany interconnectedness.

\textsuperscript{100} Morse, \textit{Modernization and the Transformation of International Relations}, Free Press, New York, 1976, p.2-3.
Sovereignty in India is increasingly challenged by

(1) Global market forces, which easily penetrate borders and affect national economies in number of ways. Like environment, global communication systems: nuclear weapons, terrorism, drug trade, etc.

(2) The development of norms concerning international protection of human rights and humanitarian law are seen to infringe sovereignty because they challenge principle of non-intervention – i.e., the right of states to govern their citizens free from outside interference.

(3) There is, the core area of warfare and control of the means of violence in their domestic jurisdiction.

Globalization therefore, purely rests on an ideology of American model of free market capitalism in which role of India is that of a 'facilitator' and 'regulator' of the rules of the game for managing efficient free market economy. India has to play the role of a good 'host' for transnational capital. Thus, the protagonists of globalisation maintain that the state is the real villain and should be ejected from centrality of position it occupies in the national economy and replaced by global capitalism, which constraints the sovereignty of India. According to Strobe Talbott – along with the expansion and adaptation of international institutions in the nineties came the establishment of a new principle. It was agreed that there are limits on the sovereignty of the nation state; national governments are subject to international sanction if they violate basic norms within their own borders.\textsuperscript{103}

\textsuperscript{103} The Asian Age, New Delhi, November 20, 2003, p.16.
India has abandoned its national project of self-reliant economy, both internally and externally in favour of a New Economic Policy based on globalisation, liberalisation and privatisation, firmly situated on the principle of sovereignty of the nation-state, but the project of New Economic policy of the 1990s is based on the doctrine of subordination of Indian state to global capitalist –cum imperialist countries. The whole programme of structural adjustment and control over fiscal deficit has been carried out by the Indian state at the behest of capital exporting countries and global institutions like IMF and World Bank. In the age of globalisation, 'state' and 'capital' get fully integrated and the corporate houses achieve free entry to the corridors of political and bureaucratic decision-makers. The Foreign Financial Institutional investors are full of liquidity and they have pumped Rs.23,000 crore into Indian Equity market.\textsuperscript{104} Thus, India has moved from autonomy to dependence. The old is dead and precious ideas and policies have been discarded from 1990's and new path of dependent development has been adopted.

Joseph Stiglitz, a former chief economist at the World Bank, makes it clear that the ongoing globalisation process is beneficial for the capitalist countries and it has disastrous social and political consequences for the developing countries. He observes the FDI comes only at the price of undermining democratic processes.\textsuperscript{105}

An important negative impact of the 'opening of national economy' to foreign capital has been the growth of speculative capitalism at the cost of productive capitalism because the Foreign Exchange Regulation Act of India has been debunked by the liberalisers without creating any

\textsuperscript{104} The Economic Times, New Delhi, November 4, 2003, p.4.
capability of the Indian state to control speculators. According to Stiglitz it increases economic instability, which in turn contributes to insecurity and poverty. So, such forms of capital market increase globalization. But they do not enhance growth.\textsuperscript{106}

Another consequence of the policies of liberalisation and free market economies has been emergence of regional disparities, income inequalities, disparities among social groups, widening of rural-urban gap and forced migration. According to Human Development Report "Stark differences are emerging between regions, some pulling ahead while others are left behind. Some countries are succeeding while others are falling behind."\textsuperscript{107}

Thus, the ongoing process of globalisation is precisely aimed against the state systems against their capacities to manage national economies among the nation-states. And in the absence of an effective state intervention in favour of deprived majority, social disorder will become the order of the day. Bhanoji Rao offers an explanation that 1) There is convincing evidence that economic growth per se could lower income and wealth inequalities 2) with acceptance and emulation of socialism and / welfarism on the decline, institutions that work for the decline of inequalities such as land reform and government funded public and social services get marginalised.\textsuperscript{108} In the wake of globalization process, Tushar K. Mahanti informs us that; Indian job market has shrunk dramatically in the post-reforms years. Most of the big companies, both in the public and private sector, have introduced various separation schemes of late and


\textsuperscript{107} Human Development Report 2003, Oxford University Press, New Delhi, 2003, p.34.

reduced work force significantly.\textsuperscript{109} He further informs that "The number of employed in the organised sector has fallen unchecked from 282.45 lakhs in 1997 to 227.89 lakhs in 2001. The fall was sharper in the public sector, where the number of employed has fallen by 4.20 lakhs or 2.2\% during the period. The number of employed in the organised private sector during the same period has fallen by 0.4\% from 86.86 lakhs in 1997 to 86.52 lakhs in 2001.\textsuperscript{110} Public sector enterprises in India were assigned a goal to generate employment, but in the phase of the dismantling of state enterprises, it has become a part of political rhetoric.

The adverse consequence of the current phase of globalization is that in an asymmetrical international political system. The state sovereignty of the country is under threat from the real sovereign western countries, which are headquarters of surplus capital for investments and technology.\textsuperscript{111}

It is to be stated here that Nehru-Mahalnobis model of economic development based on import substitution industrialization was not 'autarchic' or isolationist but it was an assertion of national interest being nationally defined by the Indian state and linkages with world system were based on relative autonomy.

The best illustration of this is: India decided to establish steel plants in public sector, Nehru government started negotiations with foreign countries. The Americans were the first to approach. India declined the American offer because America was offering the plant to be managed by private entrepreneurs. The Russians, the Germans and the British

\textsuperscript{109} Economic Times, New Delhi, May 12, 2003, p.10.
\textsuperscript{110} The Statesman, New Delhi, 17, 2003, p.9.
\textsuperscript{111} C.P. Bhambri, Globalization: India, Nation, State and Democracy, Cipra Publications, New Delhi, 2005, p.70.
supported the proposal of establishing India's steel plants in public sector. Accordingly in Bhilai, Rourkela, and Durgapur Steel plants were setup in collaboration with these countries in India. This situation of sovereign decisions by India does not exist any more in WTO regime.

Similarly the patent Act of 1970 was amended in 1999. The second amendment was made in 2002 and the third amendment to patent law is before parliament. The purpose of third amendment is The introduction of the TRIPs mandated product patents regime in the country for food, drugs, pharmaceuticals and chemicals. The organisation of pharmaceutical production of India (OPPI) which comprises MNCs such as Pfizer, Glaxo Smithkline, Novartis, Antra Zenera made a representation to government of India that “not a single exclusive marketing right (EMR) has been granted by Indian Patent controller after its introduction in 1999, which shows that country's EMR norms are flawed.

The crux of the issue is not the logic of capitalist global market but the capabilities of a state to manage its own national affairs and have the capability to negotiate with western countries.

The Indian state has greater competence than NGOs, to regulate social aspects of economy, but it is made to surrender this role to NGOs in the process the state's capabilities are getting eroded. It deserves to be stated that the mushroom growth of non-government organisations as voluntary bodies providing public services has been legitimised on the basis of an ideological myth that public services cannot deliver goods. On the contrary, in a democratic country accountability is imposed on public services and institutions; NGOs are not accountable to any public.

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112 The Economic Times, August 15, 2003, p.11.
114 The Economic Times, Delhi, July 29, 2003, p.10.
The Economic Survey of the Government of India (2002-2003) admits that public investments for the productive projects have declined. The survey observes Public investment has been partly constrained by increasing government consumption expenditure, which includes expenditure on wages and salaries, commodities and services for current use.\textsuperscript{115} The government has been following a policy of privatisation of non-core enterprises in the quest for greater productivity. Thus the privatisation of the national assets is on the march,\textsuperscript{116} with quantitative restrictions on imports and custom duties progressively coming down.\textsuperscript{117}

The governing classes of India are the defenders of sovereignty of their own states who exercise real powers. On the contrary, capitalist states have accepted that in the present phase of centralization-cum-globalization of finance capital, the state sovereignty of the poor countries is a thing of past. National states are only obstruction in the way of globalized finance and capital. Indian ruling classes have accepted the loss of sovereignty of state in globalized finance capital. Robert Zoellick a US trade representative demanded that “India should immediately amend its copyright law to fully and correctly implement the World Intellectual Property Organization’s internal treaties, “not being satisfied with this he said “the patent law still appears to contain several TRIPs inconsistencies.”\textsuperscript{118}

German philosopher Jurgen Habermas, clearly brings out the “real assumptions underlying globalization” by mentioning a) Social inequality is a fate b) The state is no more than a corporation providing services c) a necessary market outcome d) citizens are primarily customers.
As regards the impact of globalisation in India, Atal Bihari Vajpayee said, "The fruits of the expenditure that began in 1991 had not been eventually distributed .... Inequalities had increased. Therefore, my government has decided to give a new pro-poor, pro village, and pro employment orientation to our economy. We shall make modifications in the policy to remove imbalances and social inequalities.119

Global Imperialism has initiated a debate on the irrelevance of the state to manage its own national economy, it has also theorised that the project of ‘nation’, ‘nationalism’ and ‘nationality’ have attracted lot of attention of serious scholars, led by Hobsbawm to maintain that the number of historical works concerning ‘nation’ have been much more in the period 1968-88 than for any other period.120

The beginnings of twenty-first century are revealing very disturbing social and political trends for the future because ‘states’ and ‘nations’ of the third world are under serious attack. Ray Kiely observes: "The globalization of the world economy refers to the ability of capital to move freely across national boundaries ... such hyper mobility undermines the ability of nation states to direct so called national economies.... This is undoubtedly the most globalised form of economic activity and the end of geography.121

Under conditions of globalised production, national governments are increasingly constrained in pursuing policies of their own liking.122

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central idea of globalisation lies in the erosion of the state autonomy for the management of its national economy. Not only this, the Structural Adjustment Programmes undertaken by the 'capital deficit' states have to be undertaken under the supervision of IMF and World Bank. The developing countries like India are expected to control their fiscal deficits and rates of inflation and create hospitable conditions for the free flow of capital and technology from the capital surplus countries of North.

It will see 'nation-states' and nations being dislocated by new supranational restructuring of the globe, Nations and Nationalism will be present in the history but in subordinate and minor roles.\textsuperscript{123}

Giles Mohan observes that in the north, there has been relatively recent discovery that globalisation signals an erosion of state power.\textsuperscript{124}

Indian nation-state is under great attack from the American Empire and the forces of religious sectarianism and fundamentalism, The Unipolar world system is affecting every aspect of polity, economy, society and culture across the country.

Kagarlitsky captures the complex reality of the national state in the epoch of capitalist globalisation. He observes: "The weakening of the role of nation-state in the context of global market is an uncontestable fact. But it is equally indisputable that despite this weakening, the state remains a critically important factor of political development and economic development. It is no accident that transnational corporations constantly make use of the nation-state as an instrument of their policy.\textsuperscript{125}

Global imperialism may not be entirely attributed to the external factors because if internally the nation-state does not enjoy popular legitimacy of the popular classes, it will always be vulnerable to external pressures and dictations. It is only a democratically strong nation-state, which can have the capacity to negotiate and bargain with global capitalist class. The autonomy of Indian state vis-à-vis global capitalism has been eroded. Indian democratic state stands at a cross road because the logic of global capitalism has been allowed to operate wherein all principles enshrined in the liberal democratic constitution of India have been abandoned under the weight of advanced capitalism.

Roland Axtmann observes: “A global economy has emerged which has become institutionalised through global capital markets and globally integrated financial systems in such a ‘global economy’, the patterns of production and consumption are increasingly dependent... and national macro-economic management is becoming increasingly anachronistic and doomed to failure...”

The globalisation of production and finance has undermined the ability of economic policy makers to manage national economic activists effectively, at least in so far as policies do not fit into the international framework set by global force.

Thus, India is witnessing serious crisis of capital accumulation and the developing social crisis is a threat to the functioning of democratic

state. The crisis has been intensified because domestic exploiting classes have linked themselves with global forces surrendering the autonomy of the state. The modern institutions for the governance of the country are facing serious crisis of legitimacy because majority of the citizens are losing faith in the capability of such institutions for the establishment of just and moral social order. Historically, citizens perceived that modern institutions of the state were protectors and defenders of their legitimate interests.\textsuperscript{129} In return, the state expected willing obedience from the citizens. Since the citizens do not perceive state institutions as the protector of their legitimate concerns, their loyalty is declining. Civil society and NGOs are emerging as more effective means of people to promote and protect their interest.

James N. Rosenau, observes: "Today the state is no longer the predominant actor in international affairs as it had been for more than three centuries. The skill revolution, the world wide authority crisis and other sources of turbulence have led to a bifurcation of global structure".\textsuperscript{130}

These new global developments at the close of 20\textsuperscript{th} century have been taken note by Istvan Hant, as "Whether the large "nation states" of Europe can preserve their territorial integrity against internal pressure whether they break-up or not, .... In other words, it depends on the intersection between democracy and reason of state at the very core of the state in question.\textsuperscript{131} Indian moral and social order is exposed to stresses

\textsuperscript{129} C.P. Bhambhri, Supra no. 109, p.132.
and strains because the institutions for governance have been personalised or privatised. Atul Kohli affirms that powerful leaders in India often have proved to be enemies of institutions such as political parties. Because institutions tend to constrain personal power, those who attain positions of power because of personality traits usually show little interest in institutional development or worse, actively seek to weaken existing institutions.132

The Indian state is thus, over stretched, and it should retreat from large segments of social life. Otherwise it may tend to crisis under the burden of its own overweight.

The Indian democratic state is bound to face a serious crisis, because globalization and liberalisation are bound to erode the popular legitimacy of the state. A retreating state in India cannot remain democratic because serious social cleavages and crisis cannot be resolved by accepting the new methodology of market forces.

The issue of 'subsidy' to the Indian farmers seems to be the domestic problem of the Indian state. The World Bank and IMF strongly objected to the 'subsidization' because it creates fiscal deficits in India and leads to bad management of Indian economy. Marxists are unanimous on the concept of 'relative autonomy of the state'133

The concept of relative autonomy of the state has domestic and international dimensions but globalisation of the Indian economy under hegemonic world knocks down the concept of sovereignty of the Indian

The globalisation of the Indian economy has directly affected sovereignty of the Indian state. It has also aggravated regional imbalances and generated ruthless inter-state competition to attract foreign capital. In the era of globalisation, Indian politics is giving rise to the emergence of new identities in the name of multi-religious, multi-caste, multi-ethnic and multi-cultural groups of India.

The collapse of erstwhile European social state system, the end of cold war, the emergence of ill-defined world order and the crisis of Third World economies and societies brought a qualitative change in global power relations in the 1990; Mark Rupert observes: In the context of post-war global order, the growth of transnational production and intra-firm exchange has to a significant degree displaced international trade.134

India has entered a stage of crisis as Habermas says: “Crisis occurrences owe their objectivity to the fact that they issue from unresolved steering problems.”135

Political cohesion of Indian state has become quite weak which has affected the state’s capabilities to meet the emerging challenges of nation building for twenty-first century. Madhav Godbole, a former Home Secretary of Government of India, refers to one kind of internal strife in the working of the higher echelons of bureaucracy in India.136

Global political and economic context determines the nature and context of national sovereignty. The global economic and political leaders have more sovereignty than the peripheral countries. Thus, Indian

economy will seriously affect the national sovereignty of the country. The sea change which has taken place in the structure of global political economy and its impact on the reality of national sovereignty. On November 3, J.K. Galbraith, in his lecture on “The Imperial syndrome referred to the death of the traditional concept of national sovereignty in the new global context. Further, national sovereignty does not mean absence of global intervention if the so called sovereignty has created sadly inhuman situations of living”.

It is for the first time in the history of Independent India that World Bank President announced that the Bank officials will visit India for a half yearly evaluation of the Bank funded Programmes. If the pace of implementation of projects has to be regularly evaluated by the fund giving agencies it will be difficult to anticipate the future levels of foreign intervention.137

The fundamental rights of the citizens of India especially right to food, livelihood, health, self governance and right to democracy are being impinged, the sovereignty, and integrity under the federal structure is being disturbed as a consequence of which the exclusive power of state would be lost.138

The technology which is known to cause a growing concentration of wealth, which increases the charm between rich and poor leading to social unrest, turmoil and crime in country139. The commission on GATT headed by Justice V.R. Krishna Iyer observed “In short, the union parliament and

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137 C.P. Bhambhri, Supra no. 109, p.224.
139 Daya Krishna, Swadeshi View of Globalization, Swadeshi Jagaran Manch, New Delhi, 1994, p.XIX.
state legislatures have been ousted of their legislative sovereignty over an extraordinary range of matters. Even domestic agriculture, under the purview of the state government, has been transferred wholesale to WTO. The unavoidable conclusion is a loss of legislative and executive sovereignty and the increasing irrelevance of the union parliament as an instrument of governance.\textsuperscript{140}

"We, the people of India" have been caught in the cobweb of globalisation and WTO, which is constraining the right to development, contained in part IV of the Constitution of India and takes away our economic and political sovereignty. This can be realised only by people's participation in the process of development. "We, the people of India", should decide what the model of development to be\textsuperscript{141} The state is in retreat everywhere and power is delegated "upward" to supra regional and international bodies, "downward" to regional, urban and local levels, and also "outwards" as a result of trans border cooperation to relatively autonomous cross national alliances among local metropolitan or regional states with complementary interests.\textsuperscript{142}

The general impression that the people get is, Power may transferred from political class of this country to the multinationals. Jean Dreze and Amartya Sen, in "India : Economic Development and Social opportunity" conclude that "Public action in this broad sense, can play a central role in economic development and in bringing social opportunities within the reach of the people as a whole. It is no accident that economic policy

\textsuperscript{140} Ravi Kiran Jain, Loss of Economic and Political Sovereignty of "We the people of India" by Globalization, \textit{PUCL Bulletin}, August, 2002, p.2.
\textsuperscript{141} www.peoplesmarch.org.p.3.
"experts" in India are the most aggressive champions of privatization and globalization. Selling off strategically vital companies could not only introduce monopoly-pricing pressures on Indian consumers, it could also seriously jeopardize India's national sovereignty.\footnote{143} As it is, much of India's defence needs are procured from abroad. By privatising oil and gas companies and other vital infrastructure related companies – India's vital interests will be even more controlled by foreign interests that could impinge on the ability of India to take the best decision vis-à-vis protecting its sovereign rights and interests.\footnote{144}

This is reflected in the "hollowingout" of the national state apparatus with old and new state capacities being reorganised territorily and functionally on supra national, national, subnational and translocal levels as attempts are made by state managers on different territorial scales to enhance their respective operational autonomies and strategic capacities.\footnote{145}

Hence, an erosion of 'structure' in both international relations and within nation states, erosion of state is the basis for providing order and balance as well as welfare and justice in civil society.\footnote{146}

According to a report in The Hindu titled: Large-scale tax evasion by MNCs unearthed, P. Sujay Mehdudia wrote: "Income Tax Officials have alleged that these companies evade taxes with impunity as the tax laws of the country are inadequate and ineffective" to deal with such cases. Multinational giants flouting tax laws knowing very well that they could

not be arrested or criminally prosecuted under Indian legal system and could get away by paying the tax dues when caught. According to Hindustan Times report: it began with the headline: Rs.2100 crore tax evasion by MNCs. Minister of state for Finance V. Dhananjay Kumar in a written reply to a question in the Lok Sabha provided data indicating that MNCs had evaded Rs.1433.89 crores on income tax, Rs.143.80 crore on central excise duty as well as Rs.535.05 crore on account of import duty payable during last three years.

Similarly, MNCs were able to get loans from Indian financial institutions at interest rates lower than those offered to domestic industrialists and it is noted that nowhere in the world was a 100 percent subsidiary allowed in non-technical areas. What is worse is that these companies are provided all manner of perks and privileges to erode indices sovereign intellectual capital, with sufficient tax breaks and tax write-off and given preferential treatment in the allocation of resources.

Today we find that with respect to that whole range the state has ceased to fulfil the roles assigned to it. Economic insecurity makes citizens vulnerable to politics based on exclusion. For those in power, or seeking power, a politics of exclusion is becoming political necessity. It becomes necessary for filling the vacuum created by demise of economic sovereignty and the welfare state and substituting a politics based on economic rights with politics of identity. According to 201 motion, re implications of Dunkel Draft Text on Trade negotiations in parliament

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Prithviraj Chavan asserted that after the collapse of the Soviet Union, US hegemony is a fact of life. The whole world is worried about the abridgement of sovereignty as witnessed by the formation of various trade blocks. Even the Masstricht Treaty, where European countries are coming together, almost 50 percent people are working against the abridgement of sovereignty. Every time an international Treaty is signed, it reduces the independence of decision making and it curtails absolute sovereignty.

An eminent political leader, Nitish Kumar, while drawing the attention of the government towards agriculture issue, under the Dunkel Draft, stated The patent law would cause serious set back to agriculture. At present the Indian Council of Agricultural Research (ICAR) is doing commendable job in developing advanced quality of seeds. After signing the proposal, seeds of improved quality will be imported from foreign countries and MNCs will start selling. They will advertise their product in such a way that our (ICAR) will have to stop its work and scientists will be rendered jobless.

Thus, changing the Indian patent Act, drastic reduction of import tariffs, removal of quantitative restrictions on imports, liberalization of foreign banking making the rupee convertible in current account, setting up export processing zones, giving huge export subsidy, continuous devaluation of rupee, large scale outsourcing for TNCs, in IT Sector, removing all restrictions on foreign investment flows, decline of the public distribution system. All these are indicators of recent changes. Policy changes are essential for the TNCs to extend their markets in India causing direct impact on state sovereignty.

152 www.peoplesmarch.org.
153 Ibid.
154 www.peoplesmarch.org. p.1
155 Globalisation, An Attack on India's Sovereignty www.peoplesmarch.com