

GOVERNING TRANSNATIONALISATION AND THE TRANSFORMATION OF SOVEREIGNTY

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ABSTRACT

In this article³, we examine transnationalism and its governance with a view on the transformation of sovereignty. Transnationalism and sovereignty are in many ways conflicting but also necessarily connected. We explore these connections, more specifically, how the states (governments) govern, regulate, and utilise contexts that have developed transnational characteristics – e.g., via migration, economic transnationalisation, and meso-level trans-border cooperation. On this basis, we develop a typology of state-driven governance of transnationalism. This typology is discussed in juxtaposition to sovereignty as a multidimensional phenomenon and related to the main aspects of sovereignty: internal, external, and popular sovereignty.

We conclude that transnationalisation is governable by the states, given adequate institutional arrangements. Sovereignty, especially internal sovereignty, can also be accumulated by the governments in transnational contexts. Popular and external sovereignty become fuzzier as people move around, and so does territory, as states no longer operate confined only to their borders. Instead, the administrative state becomes more relevant as the locus of sovereignty, as transnationals are necessarily related to administrative rules and procedures governing their movement, settlement, and activities. However, to the extent popular and external sovereignty remain relevant, they act as balances to the increase in internal sovereignty.

Keywords: transnationalism, governance, the state, sovereignty, migration.

INTRODUCTION

Transnationalism and sovereignty are in many ways conflicting. The two concepts have evolved in worlds that are apart historically, disciplinarily, and in a normative sense. Whereas the roots of the modern concept of sovereignty lay in the Westphalian (and UN) world system of separated (and non-interfering) states, transnational studies tend to lecture methodological post-nationalism and criticise taking state borders as granted – asymmetric interference in territories occurs frequently. While the classical idea of sovereignty envisions a population tied to a territory, transnationalism perceives individuals as mobile. While sovereignty debates are to a great extent shaped by legal and political scholars, transnationalism remains a ground for anthropologists and sociologists, many of whom have a gist against legal predetermination.

Such a juxtaposition manifests itself in transnational studies, where several authors see state power as the source of problems, as well as in sovereignty studies that view transnationalisation as a threat to the sovereignty of states. Naturally, there is some middle ground that accommodates views that see the two as accommodating each other. Take, for instance, Stephen Krasner's concept of interdependence sovereignty (Krasner, 1999, 2009, 2012) – the ability of the state to control trans-border

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movements. This definition makes the state not only a domestic actor that controls intra-state issues (monopoly of legitimacy and violence in its own territory) and an international actor that establishes a relationship with other states and supra-state institutions, but also a transnational actor, aiming to establish control over trans-border processes, resources, and affiliations.

This is, to an extent, enabled by the more dynamic outlook on sovereignty that follows the transformationalist perspective on globalisation (see Held & McGrew, 2003). According to Heller and Sofaer (2012), sovereignty should not be seen as a set of established rules, but rather a changing list of capacities the state ought to have to manage in the current context. Sørensen (2004) has envisioned this as the new game of sovereignty, where the rules have become more flexible.

More flexible rules imply that agency becomes the determinant – whether and how do states adapt to the new environment. There are both winners and losers of globalisation (de la Dehesa, 2006) as well as transnationalisation. In this paper, we explore different dispositions of states towards transnationalisation and the ways those can be enacted via particular measures of governance. States can take a proactive stance and aim to play transnationalisation as a positive sum sovereignty game, enhancing their overall impact in their space of operation. However, states can also adopt a more conservative or restrictive stance towards the issue. The consequences are different for governments, people, and citizens.

This paper draws on our previous studies on micro-level transnationalisation (see e.g., Jakobson et al., 2012) and secondary material on the macro-level of transnationalisation. As the variety of transnationalist perspectives entails vastly different approaches and levels of ambition, we will develop our discussion based on transnationalism as practically evident in empirical studies. Thus, we will discuss the implications on sovereignty of governing the empirical transnationalism (including blurred borders and agency in multiple locations), but not the theoretical visions of a transnational (or cosmopolitan) world without states or of a single world state.

Scholarly literature on sovereignty has often addressed its relationship to globalisation, but transnationalism offers a somewhat different optic, being primarily a dynamic and open-ended phenomenon that develops from the bottom up. Unlike globalisation, the transnationalism perspective does not so much lead to a discussion about the end or endurance of the state or sovereignty, but instead opens a new empirical field with which state authorities relate. Similarly, at the heart of our discussion is the analysis of the transformation of sovereignty through the evolution of transnationalism as a field of human activity, and the ways to govern it.

This article focuses on the relations between sovereignty and the governance of transnationalism. Developing our previous research (especially Kalev et al., 2010; Kalev & Jakobson, 2012, 2013), we will examine the evolution and manifestations of transnationalism and the ways of governing transnationalism. Based on this, we develop a typology of strategies for governing transnationalism and discuss how the practices of governing transnationalism are related to the main aspects of sovereignty. We give an overview of different governance initiatives that can be understood as the extensions of domestic or internal sovereignty (or actual substance of statehood), discuss managing the asymmetry of the internal sovereignty of affected states, and then inquire the pressure the changes in domestic practices put on the other aspects of sovereignty – external sovereignty and popular sovereignty.

TRANSNATIONALISM

In the last decades, the scholarly discussion on transnationalism has been developing at accelerating speed, starting with the basic idea of the two-directional cultural and goods exchange created by migrants (Sutton & Makiesky-Barrow, 1975), having personal footage in two or more societies (Chaney, 1979, p. 209) and circulating between societies rather than migrating. This has resulted in the view of seeing embeddedness in cross-border exchange as a normal part of the contemporary social status of people, and in conceptualising transnational social spaces as relatively stable constellations building upon people in (or in-between) various national societies (Glick Schiller et al., 1992).

Transnationalisation is normally conceptualised as a structural process of blurring boundaries, coeval with globalisation, yet occurring in smaller and geographically more precise locations, and allowing for a continuing heterogeneity of developments across the world. Smith and Guarnizo (1998) have differentiated transnationalisation ‘from above’ – in cross-border integration, global media, financial market, or government and IGO created – and transnationalisation ‘from below’ – in activities merging from the grass-root level, such as migrating, maintaining border-crossing social networks, creating small-scale finance flows, transmitting cultural practices from one locality to another, etc.

Transnational social space is usually conceptualised as a border-crossing network of relationships: “combinations of ties, positions in networks and organisations and networks of organisations that reach across the borders of multiple states” (Faist, 2000, p. 191). Bauböck (2003) notes that transnational spaces (unlike inter-, multi-, and supranational ones) may theoretically constitute even overlapping polities between independent states, where external or dual citizenship is allowed.

From a systems theoretical perspective, transnational space is an autopoietic subsystem that organises itself according to the requirements of the conditions in the environment. Unequal development (as a premise for migration, the flow of remittances, etc.), cultural differences (that impede integration into the ‘receiving’ society, and rather result in an adaptation to its rules), relative under-representation in political and other institutions (that could result in remaining extra-institutional and peripheral or in a demand for equal rights) are some properties that shape the character of transnational political spaces.

Earlier (Kalev et al., 2010), we have analysed transnational spaces resulting from three perceptions of transnationalism: modest, multi-level, and radical. Modest tunnel-like spaces presume modern (or compatible) statehood, particularistic spaces refer to multi-level governance settings and radical overarching spaces could replace states. In practice, the most likely transnational space to develop is tunnel-like. The opportunities for multi-level type of space depend on the interest of the state institutions and the success in establishing a systemic multi-level setting of governance. The radical version of overarching transnational spaces substituting states is unlikely.

Empirical literature (e.g., Smith & Bakker, 2008; Pitkänen et al., 2012) usually studies transnationalism as individual life patterns, cross-border networks, and agency, all compatible with statehood as broadly conceptualised. Transnationalisation does not imply a total transformation, but rather, an extended or self-aware transformation of regular practices, because while engaging in transnational practices and/or spaces, one can still retain one’s roles in national or local spaces or communities. This is also the basis for our subsequent analysis.

STATE AND SOVEREIGNTY IN TRANSNATIONALISATION

In political and governance studies, the state is broadly understood as an instrument for people to organise life amongst themselves. The state is constituted by its apparatus (political and administrative institutions) and civil society, forming the organisation of public authority in a territory characterised by functionally differentiated state institutions, sovereignty and legitimacy, a unified political space, governability, and citizen agency. The state also has certain ideational parameters: symbols or other features which are perceived important for state identity. These features are constructed and reconstructed via the ever-lasting contestation of state and society projects and actors (e.g., Pierson, 2004; Hameiri, 2010; Kalev & Roosmaa, 2012; Jessop, 2015).

The perspective of transnational studies on statehood is somewhat different. Here, we do not approach states and societies as entities taken for granted, and the critique of ‘methodological nationalism’ is often exercised (see e.g., Chernilo, 2008). Countries are no longer taken as containers with clear borders that differentiate organised internal affairs from external ‘otherness’ (Taylor, 2003; Pugh et al., 2009). They are rather seen as spheres or fields, having some coherence which is nonetheless constantly changing.

At the same time, state institutions have a proactive and largely decisive role in governance, also in governing transnationalisation (Bell & Hindmoor, 2009; Kaley et al., 2010). The state is based on public authorities which organise population by meaning-making (myths, identity markers, education, legal norms) and actions (application of legal norms, power practices, use of power). Applying various governing strategies and techniques (see e.g., Hood & Margetts, 2007; Howlett, 2010), they continue in central position in shaping rationales and rules in their territory and beyond.

To reconcile the ideas of states as spheres with porous borders, and the strong position of state authorities, it is useful to differentiate between the broad and narrow meaning of the term 'the state' (see Kelsen, 2006). In a broad sense, the state is a political society and power organisation in a specific geographical area. In a narrow sense, it is the public authority, the state institutions, the state apparatus. While the state in a broad sense could increasingly be embedded in cross-border frameworks, this does not necessarily reduce the power of state in the narrow sense, e.g., the public governance institutions whose influence could also increase. The administrative state may gain influence while the state in broad sense fragments.

Sovereignty is a manifold concept (see i.e., Laski, 1921; Bartelson, 1995, 2014; Krasner, 1999; MacCormick, 1999; Kalmo & Skinner, 2010; Cohen, 2012; Innocencio, 2014). Very generally, it can be understood as the supreme authority in the polity (e.g., Bartelson, 2011), be it legally or politically based (e.g., MacCormick, 1999), exclusive or developed in the context of a broader setting (Bodinian vs. Althusian tradition, e.g., Innocencio, 2014), etc. Krasner (2012, p. 6) outlines seven classical elements of sovereignty: territory, population, effective domestic hierarchy of control, de jure constitutional independence, de facto absence of external authority, international recognition, and the ability to regulate trans-border flows. The conceptual evolution is continuing in the discussions on globalisation (e.g., Held & McGrew, 2003; Sorensen, 2004; Agnew, 2009), the EU (e.g., MacCormick, 1999; Innocencio, 2014), securitisation (Buzan et al., 1998; Omand, 2010; Guillaume & Huysmans, 2013), and digitalisation (e.g., Bigo et al., 2019; Susskind, 2020), amongst others, bringing with it the various and manifold approaches, analytical dimensions, and aspects of sovereignty. In this article, we focus on the aspects we regard as the most productive to discuss changes related to transnationalisation.

In conventional understanding, sovereignty means that a state is the highest locus of power on its territory concerning its residents. State institutions seek to impose themselves on other societal institutions (internal sovereignty) and relating to foreign actors (external sovereignty, including international recognition). This is functional to reach binding collective decisions and assure that these are followed by the residents on the territory of the state. State institutions provide an agreed upon mechanism for establishing public priorities, reconciling the goals and programmes, implementing policies, and monitoring policy results (Pierre & Peters, 2006, pp. 215–216). This typifies the public sector, which specialises by function and differentiates from the private sector.

The people of the state build up the locus of the body politic, or, in other words, the collective agent and arena of politics, a common political space (and people as the sovereign). The scope and intensity of political spaces can vary. The key question is defining who a citizen is, what are the accompanying rights and obligations, and how do citizens relate to people with other legal statuses. Political participation in the civil society or through intermediating democratic institutions or state authorities is also an important aspect. Citizens are the reference group for legitimacy. A state must have a sufficient foothold in society: a majority of the residents must recognise its authority, be the stance positive or neutral.

There is a well-known distinction of the three aspects of sovereignty: internal, external, and popular. Internal sovereignty denotes the ability of state authorities to control the territory and the people. External sovereignty signifies the international recognition of independence and the government's ability to freely operate in the international arena (see e.g., Innocencio, 2014). Popular sovereignty has a different reference ground – the ability of people (citizens) to define collective priorities and make decisions that is the basis of democratic statehood (see e.g., Bourke & Skinner, 2016). In more ambitious approaches, popular sovereignty can be seen as a precondition for the external (recognition) and even internal (legitimacy) sovereignty.

Table 1. Aspects of sovereignty

| Aspect of sovereignty | General characterisation |
|-----------------------|---|
| Internal | The ability of state authorities to control the territory and the people. Systematic organisation of public authority, finance and force, clearly defined population, territorial integrity. |
| External | International recognition of independence and the government's ability to freely operate in the international arena, diplomatic contacts with other states, membership in international organisations. |
| Popular | The ability of people (citizens) to define collective priorities and make (and change) binding decisions. Constitution founded on the rule of the people, decision-making according to a set of rules, reasonable expectation that fellow citizens comply to decisions and share outcomes, regular possibility to change decision-makers. |

Source: authors

These aspects have developed historically stepwise and are thus compatible only to an extent, even if being reconciled in a modernist setting. In political theology and feudal practices of the late Middle Ages, the supreme authority was vested in the person of the ruler (monarch), who derived his authority both from theological sources and from his relative ability to protect his subjects from internal and external enemies. Rulers operated in the context of a Medieval understanding of governance where the (Western) Christian world was seen as a broad commonwealth (*Respublica Christiana*) spiritually led by the pope, and secularly by the (Holy Roman) emperor, although especially the latter was also disputed. The lesser rulers were in layered personal relationships of allegiance to their feudal lords, while the rest of the world was not seen as part of the system, and could become part of it through Christianisation.

This prince-based approach to sovereignty became gradually substituted with the contemporary understanding through the developments from the early modern period until the 19th century through the four subsequent steps of territorialisation, depersonalisation, absolutisation, and popularisation (Bartelson, 1995, 2011). While the internal and external aspect of the modern understanding of state sovereignty developed relatively early in the contestation of the exclusive and nested sovereignty (e.g., Inocencio, 2014), the trajectory of popular sovereignty was heavily influenced by the English, American, and French revolutions of 17th and 18th century and consolidated only with the full development of the modern state

The conventional understanding of sovereignty has become challenged by the processes of globalisation and transnationalisation, which have led to questioning not only the scope of state authority, but also the usefulness of the traditional conceptualisation of sovereignty. As Saskia Sassen (1996) notes, globalisation brings about a new geography of power and leads to the realisation that systems of rule need not be territorial. A bulk of literature in the field of international relations (Keohane, 2002; Krasner, 1999, 2009, 2012; Sassen, 1996) has begun to perceive sovereignty more from the positive stance – as highest authority – rather than in its negative aspect – absence of external intervention. This conceptualisation accepts the impact of globalisation on nation states, but still conveys them as able and dominant actors in making political decisions.

To meet these analytical challenges, we proceed by understanding sovereignty as a layered concept consisting of juridical core, regulative rules, and actual substance (Sørensen, 2004). Juridical core is the constitutional independence stated and recognised (both domestically and internationally). Regulative rules include the international regime of sovereignty consisting e.g., of non-intervention and reciprocity. Actual substance is the real capacity for state action and control based on political and administrative institutions as well as the characteristics of national economy and community.

Table 2. Modern and new sovereignty game

| | The modern game | The new game |
|-------------------------------|--|--|
| Core of sovereignty | Constitutional independence | Constitutional independence |
| Regulative rules | Non-intervention | Regulated intervention |
| Substance of statehood | Territorially defined polity, economy, and culture | Multilevel governance, economic cross-border networks, supra-national elements in 'national' community |

Source: Sørensen (2004, p. 115)

In the last decades, the juridical core has been largely intact while the number of sovereign states has risen. The actual capacity of governance has evolved adjusting to circumstances as usual. Notable changes have taken place in the regulative rules, i.e., international regime of rules and practices. This has led to the emergence of a new game of sovereignty based on factual asymmetry of power and influence or even intervention across borders.

The most known areas of the new game of sovereignty have been European Union governance, international humanitarian intervention, and conditional foreign aid, often requiring accepting external activities in the territory or not using some sovereign rights. Nevertheless, the modus operandi of a regime for governing transnationalism is similar: states making unilateral or mutual concessions to foster cross-border activities. This makes governance and international law more complex as there are cross-border rules in certain areas.

Not all national governments are eager to enter the new game. There are several reasons for that, such as a lack of governance capacity, a strong sense of nationalism or nation statehood, or the acknowledged asymmetries of opportunities in case of larger and/or capable vs smaller and/or more fragile states. However, in case of weaker states, transnational governance is perceivable not only as a threat to sovereignty but as an opportunity. Smaller states could gain operating space and influence in bigger networks, poorer or dysfunctional states could tap material or administrative resources.

FROM DIASPORA POLITICS TO GOVERNING TRANSNATIONALISM

Next, we turn to actual policies – the ways contemporary states are governing transnational spaces. To understand the tools and strategies available for this, we can utilise the inventories of policies for governing diasporas (e.g., Brinkerhoff, 2004; Gamlen, 2006; Patterson, 2006) and transnationalism (e.g., Bauböck, 2003; Durand et al., 1996; Itzigsohn, 2000; Glick Schiller & Fouron, 2001; Smith & Bakker, 2008; Jakobson et al., 2012).

Differences between diaspora politics and governing transnationalism occur not much in means, but rather, in their goals and particular situations governed. Diasporas are groups of nationals abroad that have developed over time, often in generations since the original emigration (Scheffer, 2003). Transnationalism depicts a much more dynamic relationship, including shorter term migrants who return, and commuting migrants. Thus, governing transnationalism also includes managing return migration and the short-term outlook of migration.

While diaspora politics focuses on individuals and their communities, governing transnationalism also means governing meso-level bodies such as civil society organisations, transnational business, etc. Also, diaspora politics are more characteristic to peripheral states, while transnationalism may also be governed by core states.

Nevertheless, diaspora policy analyses provide a valuable basis for assessing broader transnational strategies when differences are kept in mind. For instance, Alan Gamlen's (2006) analysis of diaspora policies in 70 countries in different parts of the world has resulted in a typology proposal – he suggests that there are three kinds of diaspora policies – capacity building, extending rights to the diaspora, and extracting obligations from the diaspora.

barred from some rights, e.g., rights of inheritance, acquiring arable land, etc.

Some states have opted for hybrid forms – for instance, Turkey has signed into multiple guestworker programmes, thus using its labour force as a resource and benefitting from transnational settings. Turkey also uses cultural diaspora building strategies (Icduygu & Senay, 2012), but has restricted popular sovereignty by allowing voting in elections only on the state's territory.

However, the practical problem with extending popular sovereignty is whether the transnationals (who may be engaged in extending domestic sovereignty directly or indirectly), actually are engaged in extended popular sovereignty. The issue of the intensity and limits of transnationals' engagement is also relevant to internal sovereignty as it reflects the practical opportunities for having influence over and governing the citizens by a state.

This could also be conceptualised as the problem of the possibility of substantial multiple citizenship (in contrast to formal multiple citizenship that often means holding several passports of convenience). Indeed, precisely the existence of substantial multiple citizenship is the premise to meaningfully discuss the possibilities of micro-level political transnationalism, popular engagement, and popular sovereignty.

Migrants may have a primordial identification with the original 'homeland', but this may not translate into their activities. According to the Trans-Net study (Jakobson et al., 2012), transnational participation was rather modest – both nationally as well as transnationally. Participation is often discouraged by lack of awareness (e.g., some Estonian residents in Finland were not aware of their rights to vote in local elections) and/or lack of interest. (This may also indicate low level of informing by the state.)

Also, transmigrants are passive when there is little practical incentive – when they do not have much to benefit from their participation (Jakobson, 2013). In this sense, governments have clear pathways towards increased relevance and internal sovereignty by engaging transnationals in the development initiatives and activities in the country of origin and by providing public services. However, this is balanced by the time and energy resources of the transnationals.

Being an active citizen in multiple states could be difficult for several reasons, such as shortage of time or other resources. Often people are not active even in one community. Transnational lifestyle takes up quite a lot of effort. In a way, migration is still an individualistic or small group endeavour, and thus, this group's interests are put forth. Engaging with home country politics and being part of its body politic may be of low importance in migrants' agenda (Jakobson et al., 2012).

Modest participation may also result from lack of empowerment. Some Estonian respondents even claimed that they cannot vote in Estonia because of moral reasons, since as they claimed, they don't have to live under the rules the representatives will make. This was less evident with Finnish migrants who were more embedded in Estonian society, who self-evidently voted in practically all elections they were entitled to, even if they admitted not being very interested nor very well acquainted with politics in either country. This difference may be explained with different empowerment and different democratic tradition, as Finland is a consolidated democracy with traditions.

Transnational participation is occurring mostly in the form of long-distance nationalism in states which are politically unstable or where migrants are not satisfied with political developments (or, in many cases, non-developments). The extension of popular sovereignty over the borders may result in political transformations or at least a demand for such transformation. We can maybe even talk of democratic spill-over (Perez & Armendariz-Crow, 2010). But this requires sufficient stability in the host country.

All in all, governing transnationalism leads to a possible expansion of internal sovereignty, limited by potential decrease in civic agency and popular sovereignty. The increase of such domestic sovereignty puts pressure on the conventional model of external sovereignty based on clearly defined territorial jurisdictions.

FOUR STATEHOOD STRATEGIES IN GOVERNING TRANSNATIONALISM

In order to explain the modes in which states orientate themselves towards transnationalisation, we propose a typology. An endeavour to do so is not a precedent itself, in fact, our pursuit for it was stimulated by Georg Sørensen's (2004) differentiation of the three types of contemporary states. These can be treated as three respective statehood strategies – modern, postmodern, and weak (or post-colonial), differentiating the more conventional modern states from more transnationally proactive postmodern states and the little capable weak states (see also Kalev et al., 2010). Although such a model may provide a scale for analysing state transformations, it does not directly relate to transnationalisation and its governance.

Our model (see Figure 2) is founded on two axes which play a defining role in choosing state strategies. First of all, there is the question of states' governance capacity – to what extent can states employ effective governance strategies in their jurisdiction (and beyond). In a way, this dimension is also present in Francis Fukuyama's (2004) call to analyse not only the level of development of states, but rather, also their scope and strength.

The second dimension our model follows is the attitude toward transnationalisation – a stance towards migration, economic globalisation/transnationalisation, and the like. Here, we inquire whether states see it as an opportunity and try to adapt proactive strategies to encourage modes of transnationalisation that benefit it, or remain indifferent or even hostile, and at best, be reactive toward transnationalisation – simply by condemning it, or aiming to hinder further transnationalisation.

As a result, we come up with four statehood strategies – namely, postmodern statehood strategy, featuring a rather strong governance capacity and proactive stance toward transnationalisation; modern statehood strategy, also featuring strong governance capacity, but being rather reactive towards transnationalisation; fragile statehood strategy that is characteristic to states having weak governance capacity and not much interest in transnational governance; and developmental statehood strategy, featuring states whose governance capacity is (still) rather modest, but who are proactive towards transnationalisation.

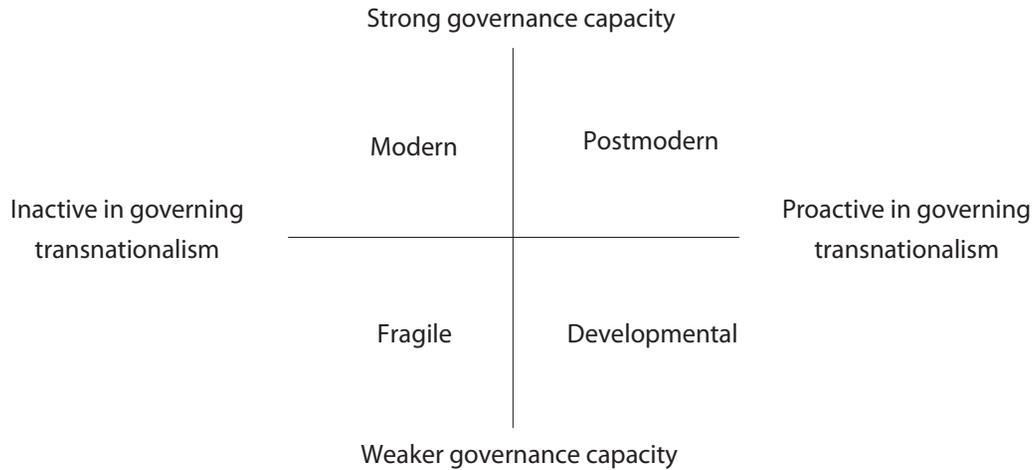
All proposed categories are ideal typical scenarios and thus do not need to accommodate all empirical statehood settings found across the globe. We acknowledge that some regimes may fall between the four categories. However, practically any state can perceive these as potential future scenarios.

The modern statehood setting is the classical centralised state where state institutions co-ordinate or steer various aspects of life. As an ahistorical type of state the modernist setting is characterised by the attempts of state institutions to build up solid, centralised, and controlled structures, if necessary, resisting globalisation trends. This is also the statehood setting in which the conventional concept of sovereignty developed and which is still taken as an ideal typical setting when sovereignty is discussed.

Migration is seen as a phenomenon that might enhance some spheres of life (e.g., economy, skills) and therefore also state-making. At the same time, the modern state is conceptualised as a nation-state which makes transnational migration problematic and unwanted. Thus, for the modern statehood setting transnationalism is a negative-sum game in terms of sovereignty.

The postmodern statehood setting could be described by diffusion and multilateralism – many of the processes that were seen as conducted by the modern state are now arranged on supra-state, local, or societal arenas. The transnational character of the world is acknowledged, as well as the inevitability of migration, and the generation of transnational communities. These issues are proactively addressed by state institutions with a focus on transforming these processes into more manageable forms (and expanding their influence).

In terms of governance capacity as well as orientation, we can distinguish between proactive and conformist strategies. The proactive strategy can generally be undertaken by large states with a lot of resources of notable global or regional importance. The institutions that have chosen the proactive strategy can even take advantage of the new situation that potentially meant a setback for the states, becoming the protagonists of transnationalisation and attempting to govern the transnational networks



Source: authors

Figure 2. Types of state (government) strategies in governing transnationalisation

themselves, ‘colonising’ the transnational space. Conformist states are usually less ambitious and in no such possession of resources. Rather, they play on the functional differentiation globalisation brings about and ‘specialise’ in particular functions, e.g., accountancy expertise, intermediating the interests of some group, or just offering stamps, citizen status, and other bonuses of statehood. Although proactivists are the ones with the largest absolute gain in sovereignty, conformists can also play a positive-sum game of sovereignty.

Fragile statehood is defined by Brock, Holm, Sørensen, and Stohl (2012, p. 16) as ineffective in planning and executing state-defined policies due to low legitimacy and administrative power, and often defectiveness in terms of economic, human, and societal development (instead of states, tribal, etc. allegiances shape individuals). Thus, fragile states are neither capable nor interested in transnational governance, and bottom-up transnationalisation (usually in the form of migration) weakens these states further, resulting in brain-drain and other problems.

However, in some cases, states that have had low governing capacity and legitimacy, have reviewed their attitude on transnationalisation and begun to perceive this as a resource for restoring their legitimacy as well as accumulating resources to (re)install (more) administrative power and effective governance over their internal territory. This has been characteristic of developmental states – often authoritarian modernising states that have focused on (economic means of) state capacity building – and post-developmental states – states that have begun to focus on nation building and are seeking for alternative development strategies to the West-centric modern state (Escobar, 1995; Ong, 1999).

While governments in fragile and modern statehood settings primarily engage with the territorial state – the former aspiring to govern its territory, establishing internal sovereignty, and the latter effectively governing it and aiming to bar external influence from its territory – postmodern and developmental states also engage with governing a transnational space (Faist, 2000) or a transnational field (Levitt & Glick Schiller, 2004). In the latter case, sovereignty can be better discussed as the possession of power resources rather than just having the highest authority in a territory.

CONCLUSION

In this article, we examined transnationalism and the ways it can be governed, and developed a typology of strategies for governing transnationalism. We have seen that transnationalisation may turn sovereignty into a positive-sum game for the states given that adequate institutional arrangements are developed. Positive-sum game emerges primarily due to the expansion of domestic type sovereignty (the aspect of internal sovereignty and the layer of actual substance of statehood).

Of course, the strategies in governing transnationalism vary across states, but this corresponds well to the understanding of transnationalism as a multifaceted phenomenon. This results in pressures in the international (legal) system of states and in popular sovereignty.

It can easily be concluded that in case states no longer operate only confined to their borders it is quite possible for governments (the state in the narrow sense) to expand their influence (the third layer of sovereignty in Sørensen's terms) over transnational areas and people (beyond their state in the broad sense). The expansion of domestic (internal) sovereignty leads to an increasing tension with the other layers and aspects of sovereignty and possible transformations. Sovereignty is not a monolithic entity, but a resource that can be accumulated by state governments. However, there are logical limits to this if we want to keep a system of governance based on multiple states and modern style international law.

If some governments succeed in considerably expanding their influence over transnational settings, they create tensions in the international regime of sovereignty (regulative rules or second layer in Sørensen's terms). It leads to a situation that could be metaphorically characterised as patches of external sovereignty in the earlier intact container of another state. While the asymmetry can to an extent be mended in developing more flexible rules (e.g., negotiated intervention), this nevertheless leads practice (and regulation) farther away from the premise of equality of states in international law. Pooling sovereignty (e.g., in the European Union) or creating multi-level arrangements (nested sovereignty) has similar implications. These developments hollow out the practical content and relevance of the external aspect of sovereignty in its conventional sense.

This could be met by a shift from conceptualising sovereignty not as exclusive right of final decision-making but as possession of power resources (well-compatible with the Foucauldian understanding of power, for example). Such relational understanding of sovereignty as an indeterminate resource can allow us to conceptually meet the increase of asymmetries of governments (and other institutions).

This may lead us to more imperial or federal style settings, resembling an earlier phase of sovereignty under feudalism and in the context of high medieval German Holy Roman Empire (see e.g., Wilson, 2016; Parker, 2013). Finding new arrangements capable of overcoming the problems made explicit by the then modern criticism of medieval settings is crucial in developing a more viable system of nested sovereignty. Here, determining sovereignty has its own challenges, such as overlapping, opacity of long decision-making chains, translation, and enforcement difficulties – and an ambiguous relation to citizens.

Concerning popular sovereignty, we can differentiate between two logics of political citizenship: the civil and the democratic. According to the civil logic, the emancipation of a citizen is primarily enacted through the practice of individual rights and is guaranteed by the rule of law. The democratic logic has the key interest in the ways citizen agency can be performed in practice. It cannot be demonstrated that meaningful citizen political agency could be set up based on civil logic (see Kalev et al., 2010). As is well captured by Erman (2012), democratic agents need not necessarily be agents of democracy. Democratic polities must be based on the democratic logic of political citizenship. Also in this case, citizenship can be globally sensitive or globally oriented (see Parekh, 2003; Axtmann, 2010).

If sovereignty becomes nested, a person may be a part of different communities of sovereignty (in a multi-layered setting). This means more challenges in transparency and capacity for civic agency but also more fundamentally for conceptualising the people as an integrated political community and for the interdependence of citizens as part of the community establishing and limiting governance, i.e., the very fundamentals of popular sovereignty (see e.g., Chandler, 2012; Chwaszcza, 2012). However, empirical accounts refer to more national or even bi-national rather than transnational practice (see e.g., Jakobson & Kalev, 2013).

The movement towards non-modern setting most likely increases the relevance of public governance institutions as the basis of sovereignty, and not that of citizen bodies (at least their de facto capacity will be limited). This will be further strengthened by the ICT-driven transformation of surveillance and governance capacities (e.g., Bigo et al., 2019; Susskind, 2020). These processes may render popular sovereignty marginal even in case there is a system of democratic governance. Thus, the locus of sovereignty is transforming – while state sovereignty develops, popular sovereignty becomes fuzzier.

Table 3. Implications of governing of transnationalism to the layers and aspects of sovereignty.

| | Inactive in governing transnationalism | Proactive in governing transnationalism |
|------------------|---|--|
| <i>Aspect</i> | | |
| Internal | Based on the idea of modern government | Based on governance utilising various techniques (if needed across borders) |
| External | Part of the family of states in modern international law | Position in a multi-layered arrangement based on capacity |
| Popular | Popular sovereignty as a basis of national representative democracy | Marginalising, tensions in democratic citizen agency and public accountability |
| <i>Layer</i> | | |
| Juridical core | Declared sovereignty | Intact (but less relevant) |
| Regulative rules | Procedural equality | Asymmetry (negotiated or regulated, multi-layered or imperial) |
| Actual substance | Full modern statehood (ideally) | Asymmetry (in capacity and authority) |
| | Inactive in governing transnationalism | Proactive in governing transnationalism |
| <i>Aspect</i> | | |
| Internal | Based on the idea of modern government | Based on governance utilising various techniques (if needed across borders) |
| External | Part of the family of states in modern international law | Position in a multi-layered arrangement based on capacity |
| Popular | Popular sovereignty as a basis of national representative democracy | Marginalising, tensions in democratic citizen agency and public accountability |
| <i>Layer</i> | | |
| Juridical core | Declared sovereignty | Intact (but less relevant) |
| Regulative rules | Procedural equality | Asymmetry (negotiated or regulated, multi-layered or imperial) |
| Actual substance | Full modern statehood (ideally) | Asymmetry (in capacity and authority) |

Source: authors

Based on previous discussion, we can conclude that the most likely practical parameters triggering transformations of conventional sovereignty are territory and population (people). The most likely developments are the increase of the importance of the administrative state as locus of sovereignty, contested popular sovereignty, and the growth of asymmetry in international system pressurising external sovereignty.

All in all, governing transnationalism clearly influences sovereignty. The growth of the relevance of (extended) domestic sovereignty and the increase of asymmetry puts pressure on other levels and aspects of sovereignty. The question is where the new balance will emerge or be established. Unilateral overexpansion of domestic sovereignty leads to imperial expansion but possibly also overstretch. A moderate balancing solution needs the evolution and reflexive use of the techniques for governing transnationalisation, self-limitation of stronger governments, and balancing domestic sovereignty by an intergovernmental enactment of the regime on transnational people.

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