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## Chapter 1 : Popular Sovereignty | Civil War on the Western Border: The Missouri-Kansas Conflict,

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What is Popular Sovereignty? Popular sovereignty essentially means the voice of the people. The principle of popular sovereignty states that elected government officials are held accountable to the authority of the people. The sovereignty of the people or popular sovereignty is a significant principle in which nations reside upon, which means a state with a fully functional government that is created by entrusted leaders with the consent of the citizens of that country. The people elect the leaders to represent them in the state hence the representative must follow the rule of law acceptable to the people who chose them government of the people. Benjamin Franklin, considered to be one of the founding fathers of the United States, wrote that the people have the final say in government and administration decisions. In America, the term sovereign was used in a controversial approach to slavery in the region as stated by a former senator named Stephen A Douglass. The statement had a very distinct meaning that the people residing in the area should be the ones deciding whether slavery is to be legal or not. An American philosopher Francisco Suarez instigated an earlier sovereignty in which his rigid opinions led to the beginning of the Latin American independence. In general, popular sovereignty means the voice of the people. Origin The idea of popular sovereignty dates back to mid-seventeenth to the eighteenth century through the famous writer Jean Rousseau. The idea later matured to popular sovereignty. The central ideology of the rule of law lies with the consent of the people being governed by that particular administration. Popular Sovereignty in the US The application of this rule has been emphasized in the United States more than any other nation. The sovereignty dates back to American history from the doctrine written that explains how the struggle to apply the idea during those dark days. It was before the battle over slavery, which later brought about the Civil War. A scientist by the name Donald S. Lutz quoted some of the application of the sovereignty rule in the United States. Some of the doctrines stated that popular sovereignty is the system whereby the ultimate authority is placed within the control of the people. However, there are a variety of ways to achieve popular freedom; one is that the role of lawmaking is entirely entitled to the people or the citizens of the nation, and the other is through mediation whereby the representative of the people negotiates the people in power to come up with a more amicable way of coexistence. The American Revolution marked the start of the idea of popular sovereignty and the same procedure has been discussed and employed in other continents and nations that in turn brought about the Europe historical context. The Americans changed the sovereignty from the hold by a single person known as King George III into a system where sovereignty is a collective effort of the people. This page was last updated on November 13,

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## Chapter 2 : Popular sovereignty - Definition, Meaning, Examples, Cases, Government

*Analyzing the "democratic" features and institutions of the Athenian democracy in the fifth century B.C., Martin Ostwald traces their development from Solon's judicial reforms to the flowering of popular sovereignty, when the people assumed the right both to enact all legislation and to hold magistrates accountable for implementing what had been enacted.*

August 22, at 4: I am well aware that some theologians have advanced a view contrary to that of Bonald. It should be noted that Bonald and Bellarmine are in agreement that the source of all political sovereignty is God. Bonald, a very serious Catholic, shows that such a view is false. That may be true, but why is it necessarily so? Note that Bellarmine has to hurry to make the distinction between ecclesiastical and political orders, because he immediately sees the potentially subversive and presbyterian conclusions that might be drawn from his theory of consent, if it were applied to the Church. The question I have for Bellarmine and Scholastic is this: A monarchist might understand the state and the monarch to be identical, which almost immediately dismisses his conclusion. Institutions and laws "which must have been made by some particular sovereign or sovereigns at some time in the past" are the persistence and continuing manifestation of past sovereignty. Sovereignty could continue to reside in these until a particular man or a group of men took up the task of governing. It need never devolve to the level of the subjects, and one would be hard-pressed to find an example when this has happened. In theory, the sovereign people are not bound to obey any law. At the very least, the claim that the people are sovereign introduces a serious confusion into the political order. It might perhaps be theoretically possible that sovereignty would diffuse to the entire polity first, but when has it ever happened? That is not an idle question. If the theory of consent were true, then we should have real examples of when it has happened, since regimes have been changing for millennia. Yet sovereignty has never actually devolved down to the level of every person in a polity. Even mass voting of the kind we find in the world today is not really the diffusion of sovereignty of this type, except in the case of referenda, where direct democracy does actually occur. Properly speaking, political participation itself is not really sovereignty, though it may be an act of consent to what the selected sovereign does. There was never a time in the past when a whole polity ceded its sovereignty to a theoretically representative ruler, and there has not been a time since when a whole polity has withdrawn that ancient consent. To take the example of Rome, which Bellarmine invokes, a particular man founded it according to the legends recorded by Livy, and set up a monarchy, which persisted until the leading senatorial families abolished the monarchy and assumed control themselves. This control persisted until such time as one among them became the supreme ruler after defeating his rivals. The patrician families allowed plebeians to participate in government to a limited extent, but at no time did a change in government occur because of popular initiative, much less could anyone confuse plebeian powers with popular sovereignty. Even those leading political figures who may have acted in what they regarded to be the interests of the plebeians, such as a Marius or Caesar, were nonetheless aristocrats wielding authority themselves. Except for the office of tribune, the plebeians had essentially no say, much less the ultimate power, in the affairs of the state. The state and the people were not synonymous, and even today when this identity is theoretically accepted as the official doctrine it is still not true. This is not just a practical reality of government. How are they equal? Not in political or martial talents "some will excel others in these. All are not equal in wisdom or virtue or intelligence. Even if sovereignty did somehow devolve to the entire polity, how often has it happened that this polity even allowing for the traditional exclusionary rules about who actually belongs to a polity has actually chosen its leader? One might cite ancient German tribes in time of war "which is obviously an exceptional situation" or ancient Athens, but even this selection of leaders by the leading men of a community has been relatively unusual before the modern age. It is hard to understand how natural law could require something that has failed to obtain in virtually every polity in history, including more than a few Christian polities which have the best chance of being in accord with natural law of any, I would think. But I would also insist on remembering that Bonald here is discussing

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sovereignty primarily in terms of the actual power to rule and make laws—even in Athens, those tribes or any current democratic republic this sovereignty does not, and could not, reside in the people. This is clear in the quote. When has popular sovereignty ever really existed? It sounds nice in a way, but so do many falsehoods. In an interregnum or in a transition from one regime to another, the leading men of the major families, or a senate or a council of nobles would be the ones to decide the future of the government. Changes occur because men already in or near positions of power alter their relationship with the existing authority, and then present subjects with a new authority to which they then submit themselves. Their consent, such as it is, is nothing other than their submission to a different set of governors. It does not demonstrate that sovereignty derives from the people. In fact, the sovereignty of the rebel legislatures and Continental Congress, whence our own government originally comes, was simply seized by the men who made up these bodies. They may either accept it, or reject it, which is rebellion. It is the rebellion of subjects who are demanding redress of the injustices committed against them. Most historical rebellions prior to the democratic age invoked the king as their protector, because they did not suppose that they possessed any right to rule or govern, and in many monarchical states liberal revolutionaries did not actually topple their monarchs but beseeched them to grant subjects a constitution and representative government. Daniel Larison August 22, at 5: I regard the theory that government is based on the consent of the governed to be an unfortunate deformation of the traditional right to rebel against tyranny. It serves as a valuable safeguard against abusive government, but I do not regard it as an entirely true statement about the origin or legitimacy of government. But that conquest or usurpation, that is, in plain terms, force, by dissolving the ancient governments, is the origin of almost all the new ones, which were ever established in the world. And that in the few cases, where consent may seem to have taken place, it was commonly so irregular, so confined, or so much intermixed either with fraud or violence, that it cannot have any great authority. No fundamental liberty was threatened, the government was not endangering the lives of the colonists through either oppression or negligence, and their lawful commerce and way of life was not noticeably impeded in any meaningful way. I grant that they perceived it very differently, but that does not change that they were really greatly overreacting.

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## Chapter 3 : What is SOVEREIGNTY? definition of SOVEREIGNTY (Black's Law Dictionary)

*Popular sovereignty - the doctrine that the public powers of state originate in a concessive grant of power from 'the people' - is perhaps the cardinal doctrine of modern constitutional theory, placing full constitutional authority in the people at large, rather than in the hands of judges, kings, or a political elite.*

Sovereignty in the monarchy or the principality is in the hands of a single ruler; in republics, sovereignty is vested in a plurality or collectivity of power holders. Reducing aristocracy and democracy to the single category of republican rule, Machiavelli also laid the basis in History. In 16th-century France Jean Bodin<sup>1596</sup> used the new concept of sovereignty to bolster the power of the French king over the rebellious feudal lords, facilitating the transition from feudalism to nationalism. The thinker who did the most to provide the term with its modern meaning was the English philosopher Thomas Hobbes<sup>1651</sup>, who argued that in every true state some person or body of persons must have the ultimate and absolute authority to declare the law; to divide this authority, he held, was essentially to destroy the unity of the state. The theories of the English philosopher John Locke<sup>1689</sup> at the end of the 17th century and the French philosopher Jean-Jacques Rousseau<sup>1762</sup> in the 18th century<sup>1789</sup> that the state is based upon a formal or informal compact of its citizens, a social contract through which they entrust such powers to a government as may be necessary for common protection<sup>1776</sup> led to the development of the doctrine of popular sovereignty that found expression in the American Declaration of Independence in 1776. A parliament, he argued, is a supreme organ that enacts laws binding upon everybody else but that is not itself bound by the laws and could change these laws at will. This description, however, fitted only a particular system of government, such as the one that prevailed in Great Britain during the 19th century. The Constitution of the United States, the fundamental law of the federal union, did not endow the national legislature with supreme power but imposed important restrictions upon it. A further complication was added when the Supreme Court of the United States asserted successfully in *Marbury v. Madison* its right to declare laws unconstitutional through a procedure called judicial review. Although this development did not lead to judicial sovereignty, it seemed to vest the sovereign power in the fundamental document itself, the Constitution. This system of constitutional sovereignty was made more complex by the fact that the authority to propose changes in the Constitution and to approve them was vested not only in Congress but also in states and in special conventions called for that purpose. Even if the competing theory of popular sovereignty<sup>1789</sup> the theory that vested sovereignty in the people of the United States<sup>1789</sup> was accepted, it still might be argued that this sovereignty need not be exercised on behalf of the people solely by the national government but could be divided on a functional basis between the federal and state authorities. Another assault from within on the doctrine of state sovereignty was made in the 20th century by those political scientists e. Laski who developed the theory of pluralistic sovereignty pluralism exercised by various political, economic, social, and religious groups that dominate the government of each state. According to this doctrine, sovereignty in each society does not reside in any particular place but shifts constantly from one group or alliance of groups to another. The pluralistic theory further contended that the state is but one of many examples of social solidarity and possesses no special authority in comparison to other components of society. Harold Joseph Laski, *The Press Association Ltd. Sovereignty and international law* Although the doctrine of sovereignty has had an important impact on developments within states, its greatest influence has been in the relations between states. This statement has often been interpreted as meaning that a sovereign is not responsible to anybody and is not bound by any laws. He emphasized that even with respect to his own citizens a sovereign is bound to observe certain basic rules derived from the divine law, the law of nature or reason, and the law that is common to all nations *jus gentium*, as well as the fundamental laws of the state that determine who is the sovereign, who succeeds to sovereignty, and what limits the sovereign power. In fact, Bodin discussed as binding upon states many of those rules that were later woven into the fabric of international law. Nevertheless, his theories have been used as justifying absolutism

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in the internal political order and anarchy in the international sphere. This interpretation was developed to its logical conclusion by Hobbes in *Leviathan*, in which the sovereign was identified with might rather than law. Law is what the sovereign commands, and it cannot limit his power; sovereign power is absolute. In the international sphere this condition led to a perpetual state of war, one sovereign trying to impose his will by force on all other sovereigns. This situation has changed little over time, with sovereign states continuing to claim the right to be judges in their own controversies, to enforce by war their own conception of their rights, to treat their own citizens in any way that suits them, and to regulate their economic life with complete disregard for possible repercussions in other states. During the 20th century important restrictions on the freedom of action of states began to appear. The Hague conventions of 1864 established detailed rules governing the conduct of wars on land and at sea. The Covenant of the League of Nations, the forerunner of the United Nations UN, restricted the right to wage war, and the Kellogg-Briand Pact of 1928 condemned recourse to war for the solution of international controversies and its use as an instrument of national policy. States have accepted a considerable body of law limiting their sovereign right to act as they please. Those restrictions on sovereignty are usually explained as deriving from consent or autolimitation, but it can easily be demonstrated that in some cases states have been considered as bound by certain rules of international law despite the lack of satisfactory proof that these rules were expressly or implicitly accepted by them. Conversely, new rules cannot ordinarily be imposed upon a state, without its consent, by the will of other states. In this way a balance has been achieved between the needs of the international society and the desire of states to protect their sovereignty to the maximum possible extent.

**Nonsovereign states** The 19th-century distinction between fully sovereign states and several categories of less sovereign units lost its importance under the law of the UN. Emphasis was placed not on legal differences among colonies, protected states, protectorates, and states under the suzerainty of another state but on the practical distinction between self-governing and non-self-governing territories. Some of these territories were placed under the UN Trusteeship Council, which resulted in a closer supervision of their administration by the UN and in their speedier progress toward self-government or independence. Once a territory achieved self-government, as defined in resolutions of the General Assembly, supervision by the UN ceased, even though independent status was not reached.

**Divided sovereignty** The concept of absolute, unlimited sovereignty did not last long after its adoption, either domestically or internationally. The growth of democracy imposed important limitations upon the power of the sovereign and of the ruling classes. The increase in the interdependence of states restricted the principle that might is right in international affairs. Citizens and policymakers generally have recognized that there can be no peace without law and that there can be no law without some limitations on sovereignty. They started, therefore, to pool their sovereignties to the extent needed to maintain peace and prosperity. Thus, the theory of divided sovereignty, first developed in federal states, has begun to be applicable in the international sphere. Learn More in these related Britannica articles:

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## Chapter 4 : Popular Sovereignty | Definition of Popular Sovereignty by Merriam-Webster

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The central tenet is that legitimacy of rule or of law is based on the consent of the governed. Popular sovereignty is thus a basic tenet of most Republics, and in some monarchies. Hobbes, Locke and Rousseau were the most influential thinkers of this school, all postulating that individuals choose to enter into a social contract with one another, thus voluntarily giving up some of their natural freedom in return for protection from dangers derived from the freedom of others. Whether men were seen as naturally more prone to violence and rapine Hobbes or cooperation and kindness Rousseau, the idea that a legitimate social order emerges only when the liberties and duties are equal among citizens binds the social contract thinkers to the concept of popular sovereignty. A parallel development of a theory of popular sovereignty can be found among the School of Salamanca see e. Francisco de Vitoria " or Francisco Suarez " , who like the theorists of the divine right of kings and Locke saw sovereignty as emanating originally from God, but unlike divine right theorists and in agreement with Locke passing from God to all people equally, not only to monarchs. Republics and popular monarchies is theoretically based on popular sovereignty. However, a legalistic notion of popular sovereignty does not necessarily imply an effective, functioning democracy: Popular sovereignty in the United States of America[ edit ] Main article: Popular sovereignty in the United States The application of the doctrine of popular sovereignty receives particular emphasis in American history, notes historian Christian G. Lutz noted the variety of American applications: To speak of popular sovereignty is to place ultimate authority in the people. There are a variety of ways in which sovereignty may be expressed. It may be immediate in the sense that the people make the law themselves, or mediated through representatives who are subject to election and recall; it may be ultimate in the sense that the people have a negative or veto over legislation, or it may be something much less dramatic. In short, popular sovereignty covers a multitude of institutional possibilities. In each case, however, popular sovereignty assumes the existence of some form of popular consent, and it is for this reason that every definition of republican government implies a theory of consent. Lutz [3] [b] The American Revolution marked a departure in the concept of popular sovereignty as it had been discussed and employed in the European historical context. With their Revolution, Americans substituted the sovereignty in the person of King George III, with a collective sovereign "composed of the people. Thenceforth, American revolutionaries generally agreed and were committed to the principle that governments were legitimate only if they rested on popular sovereignty " that is, the sovereignty of the people. Rather, the consent of the governed and the idea of the people as a sovereign had clear 17th and 18th century intellectual roots in English history. Douglas of Illinois promoted popular sovereignty as a middle position on the slavery issue. It said that actual residents of territories should be able to decide by voting whether or not slavery would be allowed in the territory. The federal government did not have to make the decision, and by appealing to democracy Cass and Douglas hoped they could finesse the question of support for or opposition to slavery. Douglas applied popular sovereignty to Kansas in the Kansas Nebraska Act which passed Congress in The Act had two unexpected results. By dropping the Missouri Compromise of which said slavery would never be allowed in Kansas, it was a major boost for the expansion of slavery. Overnight outrage united anti-slavery forces across the North into an "anti-Nebraska" movement that soon was institutionalized as the Republican Party, with its firm commitment to stop the expansion of slavery. Second, pro- and anti-slavery elements moved into Kansas with the intention of voting slavery up or down, leading to a raging civil war, known as " Bleeding Kansas. The Southern Democrats broke off and ran their own candidate against Lincoln and Douglas in

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## Chapter 5 : Popular sovereignty in the United States - Wikipedia

*Popular sovereignty or sovereignty of the peoples' rule, is the principle that the authority of a state and its government are created and sustained by the consent of its people, through their elected representatives (Rule by the People), who are the source of all political power.*

History[ edit ] The concept of popular sovereignty from which the consent of the governed derives its importance did not originate in North America; its intellectual roots can be traced back to 17th- and 18th-century European political philosophy. Before the American Revolution, there were few examples of a people creating their own government. Most had experienced government as an inheritance—as monarchies or other expressions of power. The early Americans supported the contention that governments were legitimate only if they were based on popular sovereignty. In 18th-century European political thought, "the people" excluded most of the population; suffrage was denied to women, slaves, indentured servants , those lacking sufficient property, indigenous people and the young. The effort to incorporate these lands into the United States uncovered long-simmering disputes about the extension of slavery — whether it would be permitted, protected, abolished or perpetuated in the newly-acquired areas. Attempts to resolve the issue in Congress led to gridlock. Several Congressional leaders, in an effort to resolve the deadlock over slavery as a condition for admission or administration of the territories, searched for a middle ground. Douglas is most closely associated with popular sovereignty as a solution to the extension of slavery in the territories. Johannsen, wrote that Douglas was chairman of the Committee on Territories in both the House and Senate, and he discharged the responsibilities of his position with single-minded devotion. During the debates over the organization of the Mexican Cession, Douglas evolved his doctrine of popular sovereignty, and from that time on it was irrevocably linked to his interest in the territories and in the West. His commitment to popular sovereignty was the deeper because he recognized in it a formula that would he hoped bridge the differences between the North and South on the slavery question, thus preserving the Union. Douglas "ultimately became the victim of the very politics he sought to remove from territorial policy" by advancing the idea of popular sovereignty: Rather, they were appraised in terms of their relation to the power struggle between North and South and to the issue of slavery. Georgia , illustrate what would come to be known as popular sovereignty: It will be sufficient to observe briefly that the sovereignties in Europe, and particularly in England, exist on feudal principles. That system considers the Prince as the sovereign, and the people as his subjects; it regards his person as the object of allegiance, and excludes the idea of his being on an equal footing with a subject, either in a court of justice or elsewhere No such ideas obtain here; at the Revolution, the sovereignty devolved on the people, and they are truly the sovereigns of the country, but they are sovereigns without subjects, and have none to govern but themselves. Sovereignty is the right to govern; a nation or State sovereign is the person or persons in whom that resides. In Europe, the sovereignty is generally ascribed to the Prince; here, it rests with the people; there, the sovereign actually administers the government; here, never in a single instance; our Governors are the agents of the people, and, at most, stand in the same relation to their sovereign in which regents in Europe stand to their sovereigns. They are co-sovereign with the states and the Union in public property and interests, and are governed by elected representatives. Public and private are mutually exclusive; that which is public is not private and vice versa. Even in the public sector, the people as a whole remain sovereign. When we consider the nature and the theory of our institutions of government, the principles upon which they are supposed to rest, and review the history of their development, we are constrained to conclude that they do not mean to leave room for the play and action of purely personal and arbitrary power. Sovereignty itself is, of course, not subject to law, for it is the author and source of law; but, in our system, while sovereign powers are delegated to the agencies of government, sovereignty itself remains with the people, by whom and for whom all government exists and acts. And the law is the definition and limitation of power. It is, indeed, quite true that there must always be lodged somewhere, and in some person

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or body, the authority of final decision, and in many cases of mere administration, the responsibility is purely political, no appeal lying except to the ultimate tribunal of the public judgment, exercised either in the pressure of opinion or by means of the suffrage. But the fundamental rights to life, liberty, and the pursuit of happiness, considered as individual possessions, are secured by those maxims of constitutional law which are the monuments showing the victorious progress of the race in securing to men the blessings of civilization under the reign of just and equal laws, so that, in the famous language of the Massachusetts Bill of Rights, the government of the commonwealth "may be a government of laws, and not of men. Fritz wrote in *American Sovereigns*: This interpretation persisted from the revolutionary period up to the Civil War. The phrase "popular sovereignty" did not become popular until the s.

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### Chapter 6 : Popular sovereignty - Wikipedia

*The principle of popular sovereignty states that elected government officials are held accountable to the authority of the people. The sovereignty of the people or popular sovereignty is a significant principle in which nations reside upon, which means a state with a fully functional government that.*

First promoted in the s in response to debates over western expansion, popular sovereignty argued that in a democracy, residents of a territory, and not the federal government, should be allowed to decide on slavery within their borders. In , Stephen Douglas most famously attempted to implement the measure with the Kansas-Nebraska Act. In , the Wilmot Proviso, which sought to forbid slavery in the territories acquired following the Mexican-American War, died on the floor of the Senate. In an effort to prevent future prohibitive measures against slavery in the West, Democratic Senator Lewis Cass of Michigan, offered up the idea of popular sovereignty. In theory, as Cass and his supporters reasoned, in a democratic society free citizens determined the future. But in practice, questions remained concerning how to determine who qualified as a resident of a territory, how to regulate voting fraud, and what would happen to slaveowners and their slaves in territories where slavery was voted down. Still, by allowing the people to decide, Cass hoped to ease the building tensions between the Northern and Southern wings of the Democratic Party. Nonetheless, sectional debate and instability continued unabated. In order to avoid further threats of disunion, Senator Henry Clay devised the Compromise of as a final panacea. A key component of the compromise was the implementation of popular sovereignty in the newly created Utah and New Mexico Territories. In this case, citizens in each territory were expected to vote on the slavery issue in the near future, and a climate unfavorable to plantation slavery made their votes non-controversial. Although popular sovereigntyâ€”alongside the banning of the slave trade in Washington, D. The border between Kansas and Missouri became a hotbed of violence and intimidation. In , Democratic Senator Stephen A. Douglas, of Illinois, hoped to once again employ the principles of popular sovereignty in order to address the slavery debate, this time in the Kansas and Nebraska territories. Responding to the basic tenets of popular sovereignty, groups and organizations in both the North and the South encouraged and aided families and individuals to migrate to Kansas and sway the final vote. The border between Kansas and Missouri became a hotbed of violence and intimidation, resulting in voter fraud and several antithetical constitutions proposed in Kansas. In the aftermath, and within the context of growing sectionalism and conflicts over slavery, popular sovereignty was a victim of extremist politics that erased hopes for peace. Rather than preserving the Union, the provisions instead led to further discord and violence that pushed the nation toward civil war. Oxford University Press, *The Rise of Popular sovereignty in England and America*. Norton and Company, *The Missouri-Kansas Conflict*, The Kansas City Public Library. Accessed Nov, 10, at [http:](http://)

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## Chapter 7 : Sovereignty (Stanford Encyclopedia of Philosophy)

*Sovereignty: Sovereignty, in political theory, the ultimate overseer, or authority, in the decision-making process of the state and in the maintenance of order. The concept of sovereignty“one of the most controversial ideas in political science and international law”is closely related to the difficult concepts.*

The change began when the concept of the body of Christ evolved into a notion of two bodies “one, the corpus naturale, the consecrated host on the altar, the other, the corpus mysticum, the social body of the church with its attendant administrative structure. This latter notion “of a collective social organization having an enduring, mystical essence “ would come to be transferred to political entities, the body politic. The modern polity that emerged dominant in early modern Europe manifested the qualities of the collectivity that Kantorowicz described “ a single, unified one, confined within territorial borders, possessing a single set of interests, ruled by an authority that was bundled into a single entity and held supremacy in advancing the interests of the polity. Though in early modern times, kings would hold this authority, later practitioners of it would include the people ruling through a constitution, nations, the Communist Party, dictators, juntas, and theocracies. The modern polity is known as the state, and the fundamental characteristic of authority within it, sovereignty. The evolution that Kantorowicz described is formative, for sovereignty is a signature feature of modern politics. Some scholars have doubted whether a stable, essential notion of sovereignty exists. But there is in fact a definition that captures what sovereignty came to mean in early modern Europe and of which most subsequent definitions are a variant: This is the quality that early modern states possessed, but which popes, emperors, kings, bishops, and most nobles and vassals during the Middle Ages lacked. Each component of this definition highlights an important aspect of the concept. First, a holder of sovereignty possesses authority. Authority is rather what philosopher R. A holder of sovereignty derives authority from some mutually acknowledged source of legitimacy “ natural law, a divine mandate, hereditary law, a constitution, even international law. In the contemporary era, some body of law is ubiquitously the source of sovereignty. But if sovereignty is a matter of authority, it is not a matter of mere authority, but of supreme authority. Supremacy is what makes the constitution of the United States superior to the government of Pennsylvania, or any holder of sovereignty different from a police chief or corporate executive. The holder of sovereignty is superior to all authorities under its purview. Supremacy, too, is endemic to modernity. During the Middle Ages, manifold authorities held some sort of legal warrant for their authority, whether feudal, canonical, or otherwise, but very rarely did such warrant confer supremacy. A final ingredient of sovereignty is territoriality, also a feature of political authority in modernity. Territoriality is a principle by which members of a community are to be defined. It specifies that their membership derives from their residence within borders. It is a powerful principle, for it defines membership in a way that may not correspond with identity. It is rather by simple virtue of their location within geographic borders that people belong to a state and fall under the authority of its ruler. It is within a geographic territory that modern sovereigns are supremely authoritative. Territoriality is now deeply taken for granted. It is a feature of authority all across the globe. Even supranational and international institutions like the European Union and the United Nations are composed of states whose membership is in turn defined territorially. Though territoriality has existed in different eras and locales, other principles of membership like family kinship, religion, tribe, and feudal ties have also held great prestige. Most vividly contrasting with territoriality is a wandering tribe, whose authority structure is completely disassociated with a particular piece of land. Territoriality specifies by what quality citizens are subject to authority “ their geographic location within a set of boundaries. International relations theorists have indeed pointed out the similarity between sovereignty and another institution in which lines demarcate land “ private property. Indeed, the two prominently rose together in the thought of Thomas Hobbes. Supreme authority within a territory “ this is the general definition of sovereignty. Historical manifestations of sovereignty are almost always specific instances of this general definition. It is in fact the instances of which

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philosophers and the politically motivated have spoken most often, making their claim for the sovereignty of this person or that body of law. Understanding sovereignty, then, involves understanding claims to it, or at least some of the most important of these claims. Over the past half millennium, these claims have taken extraordinarily diverse forms – nations asserting independence from mother states, communists seeking freedom from colonialists, the vox populi contending with ancien regimes, theocracies who reject the authority of secular states, and sundry others. It is indeed a mark of the resilience and flexibility of the sovereign state that it has accommodated such diverse sorts of authority. Though a catalog of these authorities is not possible here, three dimensions along which they may be understood will help to categorize them: As suggested, diverse authorities have held sovereignty – kings, dictators, peoples ruling through constitutions, and the like. The character of the holder of supreme authority within a territory is probably the most important dimension of sovereignty. In early modern times, French theorist Jean Bodin thought that sovereignty must reside in a single individual. Both he and English philosopher Thomas Hobbes conceived the sovereign as being above the law. Later thinkers differed, coming to envision new loci for sovereignty, but remaining committed to the principle. Sovereignty can also be absolute or non-absolute. How is it possible that sovereignty might be non-absolute if it is also supreme? After all, scholars like Alan James argue that sovereignty can only be either present or absent, and cannot exist partially James , 4. But here, absoluteness refers not to the extent or character of sovereignty, which must always be supreme, but rather to the scope of matters over which a holder of authority is sovereign. Bodin and Hobbes envisioned sovereignty as absolute, extending to all matters within the territory, unconditionally. It is possible for an authority to be sovereign over some matters within a territory, but not all. Today, many European Union EU member states exhibit non-absoluteness. They are sovereign in governing defense, but not in governing their currencies, trade policies, and many social welfare policies, which they administer in cooperation with EU authorities as set forth in EU law. Absolute sovereignty is quintessential modern sovereignty. The concept of sovereignty in international law most often connotes external sovereignty. Significantly, external sovereignty depends on recognition by outsiders. To states, this recognition is what a no-trespassing law is to private property – a set of mutual understandings that give property, or the state, immunity from outside interference. It is also external sovereignty that establishes the basic condition of international relations – anarchy, meaning the lack of a higher authority that makes claims on lower authorities. An assemblage of states, both internally and externally sovereign, makes up an international system, where sovereign entities ally, trade, make war, and make peace. The Rise of the Sovereign State: Theory and Practice Supreme authority with a territory – within this definition, sovereignty can then be understood more precisely only through its history. This history can be told as one of two broad movements – the first, a centuries long evolution towards a European continent, then a globe, of sovereign states, the second, a circumscription of absolute sovereign prerogatives in the second half of the twentieth century. It was at the Peace of Westphalia in that Europe consolidated its long transition from the Middle Ages to a world of sovereign states. According to historian J. Strayer, Britain and France looked a lot like sovereign states by around 1500, their kings possessing supremacy within bounded territories. But as late as the beginning of the Reformation in 1517, Europe remained distant from Westphalia. But within the Empire, Charles V was not sovereign, either, for princes and nobles there retained prerogatives over which he exercised no control. In 1648, a system of sovereign states gained important ground in the Peace of Augsburg, whose formula cuius regio, eius religio, allowed German princes to enforce their own faith within their territory. But Augsburg was unstable. What features of Westphalia make it the origin of the sovereign states system? In fact, not all scholars agree that it deserves this status see Krasner Certainly, Westphalia did not create a sovereign states system ex nihilo, for components of the system had been accumulating for centuries up to the settlement; afterwards, some medieval anomalies persisted. In two broad respects, though, in both legal prerogatives and practical powers, the system of sovereign states triumphed. First, states emerged as virtually the sole form of substantive constitutional authority in Europe, their authority no longer seriously challenged by the Holy Roman Empire. The Netherlands and Switzerland gained uncontested sovereignty, the

German states of the Holy Roman Empire accrued the right to ally outside the empire, while both the diplomatic communications and foreign policy designs of contemporary great powers revealed a common understanding of a system of sovereign states. Second, Westphalia brought an end to a long era of intervention in matters of religion, up to then the most commonly practiced abridgment of sovereign prerogatives. After decades of armed contestation, the design of the Peace of Augsburg was finally consolidated, not in the exact form of , but effectively establishing the authority of princes and kings over religion. Although intervention in matters of religion did not come to an absolute end, it became exceedingly rare, this in stark contrast to the previous years, when wars of religion sundered Europe. As the sovereign states system became more generalized in ensuing decades, this proscription of intervention would become more generalized, too, evolving into a foundational norm of the international system. Daniel Philpott has argued for the orthodoxy in Philpott, In recent years, though a number of scholars have come to argue that the Westphalia myth ought to be deconstructed and discarded Krasner, ; Carvalho, Leira, and Hobson, ; Nexon, ; Osiander, ; Osiander, ; Teschke, Only the long-term consensus of scholars can determine how Westphalia will continue to be regarded. Whether the sovereign states system was consolidated at Westphalia, took full shape at a later time, or always remained heterodox, its basic form nevertheless spread worldwide over the next three centuries, culminating in the decline of the European colonial empires in the mid century, when the state became the only form of polity ever to cover the entire land surface of the globe. As the sovereign state was occupying the European continent, piece by piece, in early modern times, eventually forming the system that came to occupy the globe, contemporary political philosophers embraced this form of polity and described what made it legitimate. Then, in early modern times, there were two roughly contemporary philosophers who did not write explicitly or consciously of sovereignty, yet whose ideas amounted in substance to important developments of the concept. Machiavelli observed the politics of city states in his Renaissance Italy and described what a prince had to do to promote a flourishing republic in terms that conferred on him supreme authority within his territory. Manifestly, he was not to be bound by natural law, canon law, Gospel precepts, or any of the norms or authorities that obligated members of Christendom. Purveying sovereignty from quite a different perspective was Martin Luther. His theology of the Reformation advocated stripping the Catholic Church of its many powers, not only its ecclesiastical powers, but powers that are, by any modern definition, temporal. Luther held that the Church should no longer be thought of as a visible, hierarchical institution, but was rather the invisibly united aggregate of local churches that adhered to right doctrine. Thus, the Catholic Church no longer legitimately held vast tracts of land that it taxed and defended, and whose justice it administered; it was no longer legitimate for its bishops to hold temporal offices under princes and kings; nor would the Pope be able to depose secular rulers through his power of excommunication; most importantly, the Holy Roman Emperor would no longer legitimately enforce Catholic uniformity. No longer would the Church and those who acted in its name exercise political or economic authority. Who, then, would take up such relinquished powers? It was this vision that triumphed at Westphalia. The realm of the world was the order of secular society, where civil authorities ran governmental institutions through law and coercion. Both realms furthered the good of believers, but in different senses; they were to be separately organized. Leaders of the church would perform spiritual duties; princes, kings and magistrates would perform temporal ones. Freed from the power of the pope and the Catholic Church, having appropriated temporal powers within their realm, princes were now effectively sovereign. French philosopher Jean Bodin was the first European philosopher to treat the concept extensively.

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## Chapter 8 : Sovereignty | Wex Legal Dictionary / Encyclopedia | LII / Legal Information Institute

*Popular sovereignty is the idea that the government gets its power from its citizens. This belief is based on the concept that the government should exist for the sole purpose of benefiting its citizens, and if the government is not doing everything it can to protect its people, then it should be disbanded.*

Monarchs get their power to rule from God. Governments get their power to rule from the people. Monarchs get their power to rule from the people. Governments get their power to rule from the people. Submit Answer Question 4 of 4 What is the best comparison between a direct democracy and a republic? In both a direct democracy and a republic, individual citizens personally represent themselves in the government. In a direct democracy, individual citizens personally represent themselves in the government. In a republic, citizens are represented by elected officials in the government. In a direct democracy, citizens are represented by an executive council. In a republic, citizens are represented by a monarch. In both a direct democracy and a republic, citizens are represented by elected officials in the government. Submit Answer This reading brought to you by: Want to learn about scholarship opportunities from the Bill of Rights Institute? Natural rights Rights which belong to us by nature and can only be justly taken away through due process. Inalienable rights Rights which belong to us by nature and can only be justly taken away through due process. Liberty Except where authorized by people through the Constitution, government does not have the authority to limit freedom. Popular sovereignty The power of government flows from the people. Separation of powers A system of distinct powers built into the constitution, to prevent an accumulation of power in one branch. Checks and balances Powers distributed among the branches of government allowing each to limit the application of power of the other branches and to prevent expansion of power of any branch. Federalism The people delegate certain powers to the national government, while the states retain other powers; and the people, who authorize the states and national government, retain all freedoms not delegated to the governing bodies. Justice Fairness or reasonableness in the way people are treated or decisions are made. Constitution The fundamental principles by which a state or nation is governed. The United States Constitution, written in , lays out the roles and powers of each of the three branches of government legislative, executive, and judicial , the protections of due process and rule of law in the states, a republican form of government, and the manner in which to amend the document. Thomas Jefferson Jefferson was a Virginia plantation owner who was the principle author of the Declaration of Independence. After his presidency, Jefferson started the University of Virginia near his home, Monticello. Bill of Rights The first ten amendments to the Constitution, ratified in , which limit government power and protect individual liberties, including the freedoms of speech, press, religion, petition, and assembly, as well as protections against cruel and unusual punishment, unreasonable search and seizure, and other due process rights. Equality Every individual is equal to every other person with respect to natural rights and treatment before the law. Individual responsibility Individuals must take care of themselves and their families, and be vigilant to preserve their liberty and the liberty of others. Rule of law Government officials and citizens all abide by the same laws regardless of political power. Articles of Confederation The first national government document developed in by the Founders. The Articles created a federal legislative branch, but there was no executive or judiciary. The states retained most of the governmental powers. These men were instrumental in establishing the nation and its governmental documents and practices. Federalist Papers A series of 85 essays written to convince the people of New York to ratify the Constitution. These documents are considered to be the most authoritative explanation of the political theory of the Constitution. First Amendment Ratified in , it protects the freedom of speech, the freedom of religion, freedom of the press, freedom to assemble, and freedom to petition the government. John Locke An English philosopher and physician, John Locke was one of the most influential Enlightenment thinkers and is known today as the Father of Classical Liberalism. Continental Congress The Continental Congress, comprised of delegates from 12 of the 13 American colonies, represented the colonists during and

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after the American Revolution. His actions towards the American colonies, outlined in the Declaration of Independence, spurred the American Revolution. Great Depression Spanning ten years from to , the Great Depression was one of the longest-lasting economic downturns in the history of the United States affecting the U. Preamble An introductory statement, preface, or introduction. Tyranny Cruel and unfair treatment by people with power over others. Tyrannical Using power over people in a way that is cruel and unfair. Adams was an advocate of American independence from Britain and a Federalist. He was also one of the authors of the Federalist Papers. Third Amendment Ratified in , it protects citizens against the quartering of soldiers in private homes without their approval. He visited the U. The first volume was published in and the second in Magna Carta Written in , it is the oldest document in the British and American heritage of rights. Thirteenth Amendment The Thirteenth Amendment to the Constitution abolished slavery and involuntary servitude, except as punishment for a crime. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction. Congress shall have power to enforce this article by appropriate legislation. After one year from the ratification of this article the manufacture, sale, or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all territory subject to the jurisdiction thereof for beverage purposes is hereby prohibited. The Congress and the several states shall have concurrent power to enforce this article by appropriate legislation. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of the several states, as provided in the Constitution, within seven years from the date of the submission hereof to the states by the Congress. The terms of the President and Vice President shall end at noon on the 20th day of January, and the terms of Senators and Representatives at noon on the 3rd day of January, of the years in which such terms would have ended if this article had not been ratified; and the terms of their successors shall then begin. The eighteenth article of amendment to the Constitution of the United States is hereby repealed. The transportation or importation into any state, territory, or possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by conventions in the several states, as provided in the Constitution, within seven years from the date of the submission hereof to the states by the Congress. Benjamin Franklin One of the Founding Fathers of the United States, Benjamin Franklin was a statesman, author, publisher, scientist, inventor and diplomat. In addition, Franklin helped negotiated the Treaty of Paris which ended the Revolutionary War and later served as a delegate to the convention that produced the U.

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### Chapter 9 : Popular Sovereignty | World Encyclopedia of Law

*Political sovereignty is the assertion of the self-determinate will of the organic people, and in this there is the manifestation of its freedom. It is in and through the determination of its sovereignty that the order of the nation is constituted and maintained."*

The five different kinds of sovereignty are as follows: In ancient times many states had monarchies and their rulers were monarchs. They wielded absolute power and their senates and parliaments were quite powerless. At that time they exercised real sovereignty. Therefore, they are regarded as real sovereigns. For example, Kings were sovereigns and hence they were all powerful in England before fifteenth century, in U. The state of affairs changed in England after the Glorious Revolution in Now the King is like a rubber- stamp. The British king has a right to encourage, warn and advise his Ministers or seek any information about the administration. Except these ordinary powers, all other powers of the British king are wielded by his Ministers. Lowell has summed up the position of the British Sovereign in these words: It was for them to advise and for him to decide. Now the parts are almost reversed. Legal sovereignty is that authority of the state which has the legal power to issue final commands. It is the authority of the state to whose directions the law of the State attributes final legal force. In every independent and ordered state there are some laws which must be obeyed by the people and there must be a power to issue and enforce these laws. In England, the King-in-Parliament is sovereign. The authority of the legal sovereign is absolute and law is simply the will of the sovereign. Since the authority of the sovereign is unrestrained, reserves the legal right to do whatever he desires. It is the legal sovereign who grants and enforces all the rights enjoyed by the citizens and, therefore, there cannot be any right against him. The legal sovereign is, thus, always definite and determinate. Only the legal sovereign has the power to declare in legal terms the will of the state. The authority of the sovereign is absolute and supreme. This authority may reside either in the monarch or in an absolute monarchy or it may reside in the body of persons. Such sovereign to whom the legal sovereign must bow is called political sovereign. In every Ordered state the legal sovereign has to pay due attention to the political sovereign. In other words by political sovereign in the representative democracies, we mean the whole mass of the people or the electorate or the public opinion. But at the same time, it cannot be emphatically asserted that political sovereignty can definitely be identified with the whole mass of the people, the electorate or the public opinion. Political sovereignty is a vague and indeterminate term. Political sovereignty rests in that class of people under whose influence the mass of the people is or the people are. Political sovereignty rests in the electorate, in the public opinion and in all other influences in the state which mould and shape the public opinion. In the words of Professor R. It is, however, not organised and it can become effective only when organised. But the organisations of political sovereignty lead to legal sovereignty. As a matter of fact, legal and political sovereignty are the two aspects of the one sovereignty of the state. But at the same time both the aspects stands poles apart. Legal sovereign is a law-making authority in legal terms, whereas political sovereignty is behind the legal sovereign. The legal sovereign can express his will in legal terms. But the political sovereign cannot do so. Legal sovereign is determinate, definite and visible whereas political sovereign is not determinate and clear. Legal sovereignty is vested in the electorate, public opinion and other influences of the state which mould or shape the public opinion. Legal sovereign is recognised by lawyers while political sovereign is not. Legal sovereign cannot go against the will of the political sovereign whereas political sovereign, though not legally powerful, controls over the legal sovereign. The concept of legal sovereign is clear whereas the concept of political sovereign is vague. Legal sovereign is elected by the political sovereign whereas political sovereign is the electorate or the people. These are the points of difference between the legal sovereign and the political sovereign. Popular sovereignty roughly means the power of the masses as contrasted with the Power of the individual ruler of the class. It implies manhood, suffrage, with each individual having only one vote and the control of the legislature by the representatives of the people. In

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popular sovereignty public is regarded as supreme. In the ancient times many writers on Political Science used popular sovereignty as a weapon to refute absolutism of the monarchs. Sometimes a distinction is made between the De Facto actual sovereignty and De Jure legal sovereignty. A de jure sovereign is the legal sovereign whereas a de facto sovereign is a sovereign which is actually obeyed. Thus, it is quite clear, that de jure is the legal sovereignty founded on law whereas de facto is the actual sovereignty. The person or the body of persons who actually exercise power is called the de facto sovereign. The de facto sovereign may not be a legal sovereign or he may be a usurping king, a dictator, a priest or a prophet, in either case sovereignty rests upon physical power or spiritual influence rather than legal right. History abounds in examples of de facto sovereignties. For example, Oliver Cromwell became de facto sovereign after he had dismissed the Long Parliament. Napoleon became the de facto sovereign after he had overthrown the Directory. Likewise, Franco became the de facto sovereign after he had dislodged the legal sovereign in Spain. At that time, Parliament was the legal sovereign. Mussolini became the Prime Minister in the legal manner. He ruled parliament and ruled the country through parliament. Parliament remained the legal sovereign but he was the actual or de facto sovereign. Hitler also did the same in Germany. He too became the de facto sovereign. He controlled the legal sovereign and became the de facto sovereign. Similarly, Stalin remained the actual sovereign in U.S.S.R. Nazim was expelled and Nasser succeeded him in de facto sovereign. After the death of Nasser, Mr. Anwar Sadat became the President of Egypt. Similarly, Ayub Khan became the de facto sovereign after he had staged the military coup in Pakistan. When Ayub was overthrown Yahya Khan rose to power with the help of the army and became the de facto sovereign. After his defeat in the hands of Indian army he handed power to Bhutto, who was thrown in July, by Zia-ul-Haq, who first of all became de facto and later on de jure sovereign. Thus, it is quite clear that the actual or de facto sovereign is the strongest active force in the State and it is capable of making his will prevail. But sometimes, it happens that de facto and de jure sovereignty ultimately coincide. In this connection, China and Pakistan are the glaring examples. In Soviet Union, the Communist Government became the de facto government of the successful Bolshevik Revolution of 1917. But in course of time, it became the de jure government also.