

The concept of sovereignty lies at the foundation of modern natural law and is distilled in the idea of the *suum* (literally, his/her own in Latin). The *suum* is what belongs to the person by virtue of being human. No definitions are given, but rather a list of things that constitute it. The father of

modern international law, Hugo Grotius (1583-1645), mentions one's life, body, limbs, reputation, honor, sexual integrity and one's actions as part of the *suum*. The very status of being human is defined by one's individual sovereignty over these things, and this status may well be defended by force.

The reactive right to self-defense springs from here, if someone else dares to encroach upon one's sphere of action; the proactive right of subsistence or necessity also springs from here, permitting the individual to take whatever steps are required to keep himself alive, and not to be interfered

in the process. The paradox of these two rights, however, is that they are ultimately founded on the duty we have towards God. Our sovereignty over life, body and freedom is thus also a tyranny of life, body and freedom, to which we cannot renounce except by divine command.

Early modern thinkers not only justified individual sovereignty on the concept of the *suum*, but also tried to find a justification for collective sovereignty over the planet. Explaining how an apple from the common stock became mine was relatively straightforward, i.e. by picking it from the tree and bringing it to my mouth. But it wasn't as simple to explain how vast extensions became part of a nation, a kingdom or an

empire - no small matter in a time of conquest and colonization. In this case, it was not enough to appeal to physical acts, but an appeal to the imagination was also required, and this imagination was always conveniently tuned to the purposes of the conqueror or colonizer. For example, in his theory of *first occupancy*, Grotius affirms that to *occupy* (in the sense of *appropriate*), it is not necessary to step over every

centimeter of land. It suffices to delimit it and to have the intention of appropriating it, an intention expressed in certain acts defined by the occupier himself (like raising flagstaffs, establishing settlements, or drawing maps incorporating the new land as part of one's territory). Because the high seas are impossible to bound, they remain part of the common stock. Humanity itself is therefore sovereign over them.

How to choose a definition of sovereignty that would conveniently suit the purposes of the conquerors-colonizers is an underlying theme for the English empiricist philosopher John Locke (1632-1704). In the *Second Treatise of Government*, Locke contends that in order to appropriate land, one has to mix one's labor with it, thereby adding human value. This human value, he exclaims, represents 9/10, no, 99/100, no, 999/1000 of the total value! What is

counted as individual *labor*, however, is measured by European standards rather than by the standards of hunter-gatherers or nomadic shepherds: it is the labor of sedentary farmers. This is how the colonization of North America by the British is justified: insofar as the native peoples have not worked on the land in the relevant sense, they have not yet *appropriated* it, and it seems only fair to put it in the hands of those who will add real value to it.

*The fallacy of the status quo* seems to be a permanent trait among those who theorize territorial rights. Although the mission of political philosophers should be to freely question the normative foundations that justify sovereignty by X over Y, there tends to reign instead a general self-censorship, whereby theories are tailor-made to suit what already exists: if one has to justify the colonization of 'primitive' cultures, so be it; if one has to justify the State's monopoly over the control of natural resources, let's do it. The problem of this approach is its lack of awareness: each theorist treats the facts of his time as if they were the last, final and definitive, ignoring that sovereignty is a term with an ever changing significance.

Another pervasive feature of those theorizing territorial sovereignty yesterday and today, is *horror vacui*. Every single patch of earth must be annexed and appropriated by someone; every square centimeter must be subject to some kind of control and dominion. Antarctica's status in this regard is noteworthy: the seven territorial claims over the White Continent are frozen since 1959, the year in which the Antarctic Treaty was signed. There is even a big piece of Continent that remains unclaimed. The pressure to occupy Antarctica physically and symbolically, however, will mount in the years to come, and it will be interesting to see how theorists will seek to justify future occupations.

Going back to the idea of the historicity of concepts, another notable fact is how, until recently, international law has appealed to the over-exploitation and abuse of natural resources as a valid ground for sovereignty. In the case of claims over Antarctica, again, countries like Chile, Argentina, the UK and Norway have invoked the activities of their seal-hunters and whalers in the sub-antarctic islands and on the Northern tip of the Antarctic Peninsula to justify their territorial rights there and further south.

6 Whereas past irresponsibility in the administration and exploitation of a resource should work as an impediment to further negligence, it is transformed into an argument to justify continued control over that resource.

Since 1962, with the international endorsement of the Doctrine of Permanent Sovereignty over Natural Resources, States are fully sovereign over the latter, which means that they have total control to decide over their administration and over the profits derived from their exploitation. However, States do not consider themselves sovereign when those same resources within their jurisdictions harm those beyond their borders. This phenomenon, which I call the *Volcanic Asymmetry*, allows a country like Chile to fully profit from the geo-thermal energy emanated from its many volcanoes, while at the same time being under no responsibility when an eruption damages the neighboring countries. Here some may point out that it would be odd to hold countries responsible for the uncontrollable natural phenomena occurring within their borders. But is it any more controllable to possess gigantic copper reserves, or a sea rich in marine life, or a benign climate for agriculture?! To be sovereign over X without having real control over X is a dangerous idea in practice: the sovereignty of States regarding their natural resources is akin to that of dog owners who claim for themselves the prizes won by their pets, but refuse to cover the costs if they bite someone.

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