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Panel 1
Theorising sovereignty outside states

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I. Introduction

The theory of sovereignty has long been questioned due to facing a multi-level legal order with pluralist values. The original theory of sovereignty rests on the independence of sovereign states, while the EU sets common values¹ and a shared legal framework, which highlights a strong interdependence between member states. Thus, the theory of sovereignty seems to require a new understanding, or, at least, to settle down on new criteria. This paper wishes to come back to the origins of the theory and to question its grounds to enable its posterior evolution.

Sovereignty, as theorized by Bodin, is the “*absolute and perpetual power of a commonwealth*,”² or a state. For a strict legal perspective, Kelsen defines sovereignty as “*a legally constituted property, pertaining to the identity of a particular legal system*.”³ In most cases, sovereignty is a theory applied to a state system.

Yet, the theory of sovereignty has been facing many criticisms due to societal evolution. Globalisation led to an interconnection of independent states and non-state actors,⁴ resulting a constant “*multicentric, multiscalar, multitemporal, multiform, and multicausal process that includes [...] the reorganization of the interstate system*.”⁵ Additionally, digitalization guides criticisms on the viability of sovereignty. It has been seen as a “*power revolution*,”⁶ within which “*the state has no choice but to reinvent itself*.”⁷ The birth of the Internet was even understood as “*the final days of a governance system relying on individual sovereign states as primary law-making authority*.”⁸

As sovereignty seems under threat or at least in transition,⁹ scholars tried to find solutions. Some advocated in favour of the death of the theory: Sovereignty has been qualified as a fiction¹⁰ or a myth.¹¹ Consequently, various scholars focused on different

¹ Article 2 of the Treaty on EU

² J. Bodin, *Les six livres de la République - Un abrégé du texte de l'édition de Paris de 1583*, Librairie générale française, Le livre de poche - Classiques de la philosophie no. 4619, 1993, p. 111

³ D. Dyzenhaus, “Kelsen, Heller and Schmitt: Paradigms of Sovereignty Thought”, *Theoretical Inquiries in Law*, 2015, vol. 16, no. 2, p. 341

⁴ J. Chevallier, C. Jacques, *L'État post-moderne*, LGDJ, 4th ed., 2017, p. 36

⁵ B. Jessop, “The spatiotemporal dynamics of globalizing capital and their impact on state power and democracy”, in H. Rosa, W.E. Scheuerman (eds.), *High-speed society: social acceleration, power, and modernity*, Pennsylvania State University Press, 2009, pp. 136-137

⁶ B. Thieulin, “Gouverner à l'heure de la révolution des pouvoirs”, *Pouvoirs*, 11 January 2018, vol. N° 164, no. 1, p. 20

⁷ *Ibid.* p. 26

⁸ D.G. Post, “Governing Cyberspace”, *Wayne Law Review*, 1996, vol. 43, no. 1, p. 163

⁹ D. Dyzenhaus, “Kelsen, Heller and Schmitt”, *op. cit.* note 3, p. 338

¹⁰ B. Badie, “D'une souveraineté fictive à une post-souveraineté incertaine”, *Studia Diplomatica*, Egmont Institute, 2000, vol. 53, no. 5, pp. 5-13

¹¹ L. Bal, *Le mythe de la souveraineté en droit international : la souveraineté des Etats à l'épreuve des mutations de l'ordre juridique international*, Thesis, Université de Strasbourg, 3 February 2012

concepts, such as the notions of autonomy,¹² power,¹³ or authority.¹⁴ Other looked for new components of sovereignty to protect its application, such as digital sovereignty.¹⁵ Some tried to extend the theory to non-state actors, such as private actors, in particular digital ones,¹⁶ or the EU.¹⁷

Consequently, sovereignty is still “one of the most important areas of study on legal theory”¹⁸ and “sovereignties are not fixed.”¹⁹ Understanding sovereignty as fluid, this paper questions the criteria required to qualify an entity as sovereign. This leads to rethinking about criteria and values used to consolidate sovereignty and how could sovereignty protect these shared values. To achieve this aim, the paper will first delve into sovereignty as a state theory, to understand its origins and traditional components. As these are instrumental and variable, the paper will look for another criterion to define sovereign entity. The applicability of this new understanding of sovereignty will be applied, as a test, to digital actors. As a consequence, this new understanding of sovereignty will enable to question the value at its core, independence, and to bring forth a proposal for a new ground to protect shared values, interdependence.

II. Sovereignty as a state theory

a. The origin of sovereignty: the creation of the modern state

In 1576, Bodin theorized sovereignty to construct a guidance for a commonwealth:²⁰ The modern state rests on “*the rightly ordered government of a number of families*,”²¹ in which the husband, father, and slave holder exercised “sovereignty” over the other members.²² Consequently, sovereignty was exercised by individuals and justified by a hierarchy between genders and races that could not be upheld in the current European context and in most countries due to the international

¹² S.J. Kobrin, “Sovereignty@Bay: Globalization, Multinational Enterprise, and the International Political System”, in A.M. Rugman, T. Brewer (eds.), *The Oxford Handbook of International Business*, Oxford University Press, 2 September 2009, p. 8

¹³ S.E. Merry, “Legal Pluralism”, *Law & Society Review*, 1988, vol. 22, no. 5, p. 888; B. Mazabraud, “Foucault, le droit et les dispositifs de pouvoir”, *Cités*, 11 October 2010, vol. n° 42, no. 2, p. 132

¹⁴ J.A. Agnew, *Globalization and sovereignty: beyond the territorial trap*, Rowman & Littlefield, Globalization, 2nd ed., 2018, p. 37

¹⁵ J. Pohle, T. Thiel, “Digital Sovereignty”, in B. Herlo (ed.), *Practicing sovereignty. Digital involvement in times of crises*, Transcript Verlag, 2021, p. 47; P. Bellanger, “De la souveraineté numérique”, *Le débat*, Gallimard, 2012, vol. 2012/3, no. 170, pp. 149-159

¹⁶ For instance, J.E. Cohen, “Law for the Platform Economy”, *University of California, Davis Law Review*, 2017, vol. 51, p. 199; J. Pohle, T. Thiel, “Digital Sovereignty”, *op. cit.* note 15, p. 54

¹⁷ For instance, P. Lamy, “Union européenne : vous avez dit souveraineté ?”, *Commentaire*, Commentaire SA, 2020, vol. Numéro 169, no. 1, pp. 5-12; B. Stirn, “Peut-on parler, en droit, d'une souveraineté européenne ?”, *La revue des juristes de Sciences Po*, LexisNexis, March 2022, no. 22, p. 4

¹⁸ T. Christakis, “European Digital Sovereignty”: *Successfully Navigating Between the “Brussels Effect” and Europe’s Quest for Strategic Autonomy*, SSRN Scholarly Paper, ID 3748098, Social Science Research Network, 7 December 2020, p. 3

¹⁹ M.E. Price, *Media and sovereignty: the global information revolution and its challenge to state power*, MIT Press, 2002, p. 17

²⁰ M. David, *La souveraineté du peuple*, Presses universitaires de France, Questions, 1st ed., 1996, p. 67

²¹ J. Bodin, *Les six livres de la République*, *op. cit.* note 2, p. 57

²² *Ibid.* chap. III, IV, V

prohibition of discrimination.²³ Beyond the household, the family chief became a citizen, a “*free subject dependent on the sovereignty of another*.”²⁴ At the state level, sovereignty becomes the “*power of a commonwealth*,”²⁵ perpetual—not depending on the individual holder of power—,²⁶ and absolute as it is not “*subject to the commands of another*.”²⁷

This understanding of sovereignty was meant to solve geopolitical struggles of the French dawning modern state. First, at the beginning of the Renaissance, Bodin’s sovereignty appeared “*to legitimately enforce internal order*”²⁸ as the French monarchy was still “*deeply marked by the seigneurial and feudal influence*.”²⁹ Second, European states were facing a “*double tutelage of the pope and the Holy Roman Empire*”³⁰ so sovereignty was an “*external claim to autonomy*.”³¹ Third, the political struggles challenging royal power derived in years of invasions and civil wars:³² An state internal unity and external independence meant to solve these conflicts as “*the ruler of each realm decides what its religion is*.”³³

Consequently, Bodin theorized a specific sovereignty, applied to a particular type of state and to respond to a certain historical context: This theory has been, from its beginnings, instrumental. As such, it could be applied for different purposes. Yet, this theory remained limited to a state application. As a consequence, the elements to identify sovereign entities are fused with those to identify states.

b. The elements of the sovereign state

The elements to identify a sovereign, understood as a state, are listed by the 1933 Montevideo Convention on the Rights and Duties of States (Article 1). Its three main elements are a territory, a population and a government, to which can be added a capacity to develop foreign relations.

First, the territory was, historically, a property owned by chiefs,³⁴ later united as a territory to create modern states.³⁵ From a legal perspective, Kelsen defines the territory as the limitations to the state legal order.³⁶ However, the territory is challenged by societal realities, particularly the creation of cyberspace, which exists “*everywhere*,

²³ Article 2.1 of the International Covenant on Civil and Political Rights, article 2.2 of the International Covenant on Economic, Social and Cultural Rights, article 14 of the European Convention on Human Rights (adding “association with a national minority”) and article 1 of its 12th Protocol.

²⁴ J. Bodin, *Les six livres de la République*, op. cit. note 2, p. 93

²⁵ *Ibid.* p. 111

²⁶ *Ibid.* pp. 112-119

²⁷ *Ibid.* p. 120

²⁸ J.A. Agnew, *Globalization and sovereignty*, op. cit. note 14, p. 9

²⁹ M. David, *La souveraineté du peuple*, op. cit. note 20, p. 39; S. Sassen, *Losing control: sovereignty in an age of globalization*, Columbia University Press, University Seminars: Leonard Hastings Schöff Memorial Lectures, 1996, p. 8

³⁰ P. Beauvais, “Les mutations de la souveraineté pénale”, in Collectif (ed.), *L’exigence de justice: mélanges en l’honneur de Robert Badinter*, Dalloz, 2016, p. 71

³¹ J.L. Cohen, *Globalization and sovereignty: rethinking legality, legitimacy and constitutionalism*, Cambridge University Press, 2012, p. 28

³² D. Herzog, *Sovereignty, RIP*, Yale University Press, 2020, p. 2

³³ *Ibid.* p. 13

³⁴ J.A. Barberis, “Les liens juridiques entre l’Etat et son territoire : perspectives théoriques et évolution du droit international”, *Annuaire français de droit international*, 1999, vol. 45, no. 1, p. 193

³⁵ J.A. Agnew, *Globalization and sovereignty*, op. cit. note 14, p. 79; A.-L. Amilhat Szary, *Qu’est-ce qu’une frontière aujourd’hui ?*, Presses Universitaires de France, 2015, p. 18

³⁶ J.A. Barberis, “Les liens juridiques entre l’Etat et son territoire”, op. cit. note 34, p. 140

*nowhere and only on the Net.*³⁷ The identification of one state controlling these spaces is challenged as cyberspace is interconnected, dematerialized, and decentralized.³⁸ The decompartmentalization process of globalisation³⁹ also weakens national borders through the multiplication of flows: capital, products, services, human, information, ...

The second element of a sovereign state is a population: The organization of power aims to protecting a group of people.⁴⁰ To define it, nationality offers an objective and binary criterion, a legal link between a person and a state.⁴¹ Nevertheless, nationality does not equate anymore with the territory: The common identity of nationals is blurred⁴² and new rights are given to new beneficiaries.⁴³ Consequently, the duty to protect has been linked to a different standard, the power to control: A population is “*all the people subjected to state domination*,”⁴⁴ presumed on its territory. However, these standards are challenged by the disintermediation resulting from globalisation,⁴⁵ which increasingly separate a state from its moving citizens and nationals due to the facilitation of flows. People rely on different intermediaries or technology to avoid the control of the state, such as its monetary function by using cryptocurrencies.⁴⁶

The third element of a sovereign state is a government. From an organizational point of view, it is the governing institutions,⁴⁷ the holder of sovereignty. However, during the 18th century, the doctrine challenged the ownership of sovereignty: Authors argued whether the Nation,⁴⁸ understood as the sum of people or their representational body, could own sovereignty, instead of the head of state.⁴⁹ However, the concept of Nation requires to previously define the population. Consequently, these definitions do not provide for a general concept of government. Further criticisms derive from the deregulation process linked to globalisation:⁵⁰ Regulation does not originate only from the state and new entities exercise control over specific spaces or groups of people.⁵¹ Particularly in cyberspace, the territory and population are not clearly delimited and private actors are at the core of its control, leading to question state regulation.⁵²

³⁷ D.G. Post, “Governing Cyberspace”, *op. cit.* note 8, p. 160

³⁸ P. Trudel, “La lex electronica”, in C.-A. Morand (ed.), *Le droit saisi par la mondialisation*, Bruylant; Helbing & Lichtenhahn, Collection de droit international no. 46, 2001, pp. 224-225

³⁹ H. Ruiz Fabri, “Immatériel, territorialité et État”, *Archives de Philosophie du Droit*, Éditions Dalloz, 1999, vol. 43, p. 188

⁴⁰ J. Chevallier, C. Jacques, *L'État post-moderne*, *op. cit.* note 4, p. 69; J. Bodin, *Les six livres de la République*, *op. cit.* note 2, p. 103

⁴¹ S. Guinchard et al., *Lexique des termes juridiques*, Dalloz, Lexiques, 28th ed., 2020, p. 702

⁴² J. Chevallier, C. Jacques, *L'État post-moderne*, *op. cit.* note 4, pp. 281-298

⁴³ *Ibid.*; see also M. Delmas-Marty, *Résister, responsabiliser, anticiper, ou, Comment humaniser la mondialisation*, Seuil, 2013, p. 112

⁴⁴ O. Beaud, *La puissance de l'État*, Presses universitaires de France, Léviathan, 1st ed., 1994, pp. 118-119

⁴⁵ H. Ruiz Fabri, “Immatériel, territorialité et État”, *op. cit.* note 39, p. 188

⁴⁶ J.-P. Vergne, R. Durand, “Cyberespace et organisations « virtuelles » : l'Etat souverain a-t-il encore un avenir ?”, *Regards croisés sur l'économie*, La Découverte, 2014, vol. 2014/1, no. 14, p. 137

⁴⁷ J.L. Cohen, *Globalization and sovereignty*, *op. cit.* note 31, p. 27

⁴⁸ P. Mortier, *Les métamorphoses de la souveraineté*, Thesis, Université d'Angers, 1 January 2011, ¶¶ 24-31

⁴⁹ W.P. Nagan, C. Hammer, “The Changing Character of Sovereignty in International Law and International Relations”, *Columbia Journal of Transnational Law*, 2004, vol. 43, p. 166

⁵⁰ H. Ruiz Fabri, “Immatériel, territorialité et État”, *op. cit.* note 39, p. 188; J. Chevallier, C. Jacques, *L'État post-moderne*, *op. cit.* note 4, pp. 32-34

⁵¹ G. Lhuillier, *Le droit transnational*, Dalloz, Méthodes du droit, 2016, p. 459

⁵² J.L. Goldsmith, T. Wu, *Who controls the Internet? Illusions of a borderless world*, Oxford University Press, 2006

Finally, a sovereign state has the power “to represent the [sovereign] in the international environment,”⁵³ and the “ability to maintain international relations.”⁵⁴ However, to exercise these powers, the entity has to be recognized as a state by the international community: This element rests on the verification of the three prior components. Furthermore, the diplomatic scene is evolving. States are not the only entities to develop diplomacy strategies anymore: “Techplomacy” is increasing.⁵⁵ Negotiation processes increasingly include private actors: According to a 2021 report, “612 companies, groups and business associations [are] lobbying the EU’s digital economy policies [and] spend over € 97 million annually lobbying the EU institutions.”⁵⁶ Also, in 2017, “Denmark announced the appointment of an ambassador to the global digital giants,”⁵⁷ followed by Austria in 2020 and the EU in 2022.⁵⁸

Consequently, as the elements of a sovereign entity are limited to those of a state, they are variable and challenged by globalisation and digitalization. The theory of sovereignty should look for new criteria to be disconnected from a state theory.

III. Sovereignty as a general theory

a. Sovereignty as legitimate coercion

In 1919, Weber similarly theorized on the organization of power.⁵⁹ His theory offers a different criterion: the monopoly of legitimate coercion.

Coercion was already part of Bodin’s work, understood as the “force of arms [or] law.”⁶⁰ The acme of coercion is military sovereignty,⁶¹ against external threats, and criminal law,⁶² against internal threats. For Weber, in a broad understanding, violence is only a “superlative form of the coercion,” defined as “the capacity to guarantee subjective rights.”⁶³ Similarly, Kelsen includes not only violence but also “the exclusive right to prescribe or permit.”⁶⁴ Consequently, the doctrine relies on a “combination of

⁵³ W.P. Nagan, C. Hammer, “The Changing Character of Sovereignty in International Law and International Relations”, *op. cit.* note 49, pp. 150-151

⁵⁴ J.-P. Queneudec, “Conclusions”, in Société française pour le droit international (ed.), *L’Etat souverain à l’aube du XXI^e siècle: colloque de Nancy*, A. Pedone, 1994, p. 312

⁵⁵ C. Blume, M. Rauchbauer, “How to Be a Digital Humanist in International Relations: Cultural Tech Diplomacy Challenges Silicon Valley”, in H. Werthner et al. (eds.), *Perspectives on Digital Humanism*, Springer International Publishing, 2022, p. 104

⁵⁶ M. Bank et al., *The lobby network: big tech’s web of influence in the EU*, Corporate Europe Observatory, LobbyControl e.V., August 2021, p. 6

⁵⁷ P. Türk, “La ‘souveraineté numérique’ : un concept pertinent en droit constitutionnel ?”, in P. Türk, C. Vallar (eds.), *La souveraineté numérique : le concept, les enjeux*, 2018, p. 19

⁵⁸ S. Feingold, “Why the European Union is opening a Silicon Valley ‘embassy’”, *World Economic Forum*, 16 August 2022, online <https://www.weforum.org/agenda/2022/08/why-the-european-union-is-opening-a-silicon-valley-embassy/> (retrieved on 23 August 2022)

⁵⁹ M. Weber, *The vocation lectures: science as a vocation, politics as a vocation*, Hackett Pub, 2004, tran. R. Livingstone

⁶⁰ J. Bodin, *Les six livres de la République*, *op. cit.* note 2, p. 103

⁶¹ O. Beaud, *La puissance de l’Etat*, *op. cit.* note 44, p. 23

⁶² M. Delmas-Marty, *Le flou du droit: du code pénal aux droits de l’homme*, Presses universitaires de France, Les Voies du droit, 1st ed., 1986, p. 132

⁶³ C. Colliot-Thélène, “La fin du monopole de la violence légitime ?”, *Revue d’études comparatives Est-Ouest*, Persée - Portail des revues scientifiques en SHS, 2003, vol. 34, no. 1, p. 28

⁶⁴ M. Troper, “Le monopole de la contrainte légitime”, *Lignes*, Éditions Hazan, 1995, vol. n° 25, no. 2, p. 40

power mechanisms (coercion, assent, seduction, co-optation, etc.) involved in the exercise of authority.”⁶⁵

Once forms of coercion are identified, they have to be qualified as legitimate. The monopoly of coercion is a utopia, as its exercise aims to preventing or repressing coercion from other entities.⁶⁶ Weber investigates three grounds of legitimacy. First, traditional legitimacy is based on “*custom, sanctified by a validity that extends back into the mists of time.*” Second, charismatic legitimacy rests on “*the wholly personal devotion to, and a personal trust in, the [...] leadership qualities of an individual.*” Third, legal legitimacy relies on the “*belief in the validity of legal statutes and practical ‘competence’ based on rational rules.*”⁶⁷ Kelsen legally translate this last form through the principle of legality.⁶⁸ The state legal order monopolises coercion as it creates a framework to legally legitimise norms.⁶⁹ From this definition was created the concept of the rule of law,⁷⁰ strictly understood as the “*state’s deployment of physical force and its threats of punitive harms [when] carried out according to public, general, impartially applied, standing laws.*”⁷¹ However, this internal and formal understanding of legitimacy and rule of law can be complemented by an external and material legitimacy, which is the “*compliance with extra-systemic standards or values.*”⁷²

Legitimate coercion supports a division between an internal and an external sovereignty, by refusing coercion from the outside and mandating coercion from the inside. First, the “*principle of mutual exclusion is the essence of external sovereignty,*”⁷³ as “*rights to non-intervention and autonomy are inviolable.*”⁷⁴ External sovereignty focuses on independence and equality in the international sphere. However, equality between actors is a legal fiction⁷⁵, considering, for instance, the different weight in negotiations depending on the economic or military powers. Nevertheless, this standard of independence in participating in international relationships could be applied to non-state actors. Second, internal sovereignty was theorized by Bodin under the “marks” of sovereignty,⁷⁶ competencies of the exclusive state domain. Nevertheless, they have “*a common point of origin:*”⁷⁷ the independence in internally producing law. However, the production of norms by a single entity—the state—is a fiction. First, inside the state, various institutions produce norms. From the top, the constitutional control set norms to limit the legal production. From the bottom, territorial or independent administrative technical entities have more or less powers of

⁶⁵ J.A. Agnew, *Globalization and sovereignty*, op. cit. note 14, p. 147

⁶⁶ M. Troper, “Le monopole de la contrainte légitime”, op. cit. note 64, p. 40

⁶⁷ M. Weber, *The vocation lectures*, op. cit. note 59, p. 34

⁶⁸ M. Eabrasu, “Les états de la définition webérienne de l’État”, *Raisons politiques*, Presses de Sciences Po, 4 May 2012, vol. 45, no. 1, p. 206

⁶⁹ M. Troper, “Le monopole de la contrainte légitime”, op. cit. note 64, p. 36

⁷⁰ M. Delmas-Marty, *Le relatif et l’universel*, Éditions du Seuil, Les forces imaginantes du droit no. 1, 2004, p. 32

⁷¹ A. Abizadeh, “Democratic Legitimacy and State Coercion: A Reply to David Miller”, *Political Theory*, 2010, vol. 38, no. 1, p. 121

⁷² M. Troper, “Le monopole de la contrainte légitime”, op. cit. note 64, p. 38

⁷³ K. Irion, “Government Cloud Computing and National Data Sovereignty”, *Policy & Internet*, 2012, vol. 4, no. 3-4, p. 53

⁷⁴ J.A. Agnew, *Globalization and sovereignty*, op. cit. note 14, p. 11

⁷⁵ L. Bal, *Le mythe de la souveraineté en droit international*, op. cit. note 11, p. 217

⁷⁶ J. Bodin, *Les six livres de la République*, op. cit. note 2, p. 101

⁷⁷ H. Kalmo, Q. Skinner, “Introduction: a concept in fragments”, in H. Kalmo, Q. Skinner (eds.), *Sovereignty in fragments: the past, present and future of a contested concept*, Cambridge University Press, 2010, p. 14

regulation.⁷⁸ Second, non-state actors produce norms: supranational organizations and judges, private actors, experts' groups, etc. The state pyramid of norms becomes a network of norms, connected to various sources of norms production.⁷⁹ It remains to be seen if these norms could lead to qualify a non-state entity as sovereign.

b. Digital actors as sovereigns

To test the theory of sovereignty understood as legitimate coercion, this paper applies the concepts of external and internal sovereignty to digital actors. A wide vocabulary, with no harmonized legal terminology,⁸⁰ is used to describe businesses that shape the online world.⁸¹ The ones of platforms and online intermediaries are widely used but hide the active role of these private actors in regulating cyberspace.⁸² Consequently, the notion of digital actors is used.

Under the traditional theory of sovereignty, digital actors should not be sovereign. However, some scholars have been calling for the recognition of private entities' powers. In particular, digital actors were qualified as "*Emergent Transnational Sovereigns [...] actively participating in the ongoing construction of new transnational institutions and relationships*":⁸³ They "*behave as sovereign*."⁸⁴ To test the disconnection of sovereignty from states, the external and internal legitimate coercion of digital actors is studied.

Regarding internal sovereignty, through code and online affordances, digital actors shape the experience of their users and, thus, regulate a form of coercion on people by permitting or prohibiting certain behaviours, including the implementation of their fundamental rights.⁸⁵ This internal regulation, autonomous from state law, is particularly perceptible regarding data retention. The Directive 2006/24 obliging digital actors to retain certain data⁸⁶ was annulled in 2014 by the CJEU.⁸⁷ Consequently, data

⁷⁸ M. Van de Kerchove, "Eclatement et recomposition du droit pénal", *Revue de science criminelle et de droit pénal comparé*, Dalloz, 2000, p. 6; M.-C. Roques-Bonnet, *Le droit peut-il ignorer la révolution numérique*, Michalon Editions, 2010, p. 64

⁷⁹ F. Ost, M. van de Kerchove, *De la pyramide au réseau ? Pour une théorie dialectique du droit*, Publications des facultés universitaires Saint-Louis, 2010, p. 26

⁸⁰ G. Dinwoodie, "Who are Internet Intermediaries?", in G. Frosio (ed.), *Oxford Handbook of Online Intermediary Liability*, Oxford University Press, 4 May 2020, p. 56; T. Douville, "Quel droit pour les plateformes ?", in X. Delpech (ed.), *L'émergence d'un droit des plateformes*, Editions Dalloz, 2021, p. 221

⁸¹ R. Wentrup, P. Ström, "Online Service Providers: A New and Unique Species of the Firm?", in M. Taddeo, L. Floridi (eds.), *The Responsibilities of Online Service Providers*, Springer International Publishing, Law, Governance and Technology Series, 2017, vol. 31, p. 157

⁸² T. Gillespie, "Platforms Are Not Intermediaries", *Georgetown Law Technology Review*, 21 July 2018, vol. 2, pp. 198-216; E. Goldman, *The United States' Approach to "Platform" Regulation*, SSRN Scholarly Paper, ID 4404374, Defeating Disinformation UnConference, 2023, p. 5

⁸³ J.E. Cohen, "Law for the Platform Economy", *op. cit.* note 16, p. 199

⁸⁴ J. Pohle, T. Thiel, "Digital Sovereignty", *op. cit.* note 15, p. 54

⁸⁵ Human Rights Council, "Resolution 20/8. The promotion, protection and enjoyment of human rights on the Internet", UN, 16 July 2012, A/HRC/RES/20/8; Human Rights Council, "Resolution 26/13. The promotion, protection and enjoyment of human rights on the Internet", UN, 14 July 2014, A/HRC/RES/26/13

⁸⁶ Article 3 of the Directive 2006/24 on the retention of data generated or processed in connection with the provision of publicly available electronic communications services or of public communications networks

⁸⁷ CJEU, *Digital Rights Ireland Ltd (C-293/12)*, *Kärntner Landesregierung, Michael Seitlinger, Christof Tschohl e.a. (C-594/12) v. Minister for Communications, Marine and Natural Resources, Minister for Justice, Equality and Law Reform, Commissioner of the Garda Síochána and Ireland*, 8 April 2014, C- 293/12 and C- 594/12.

retention norms remain in the hands of digital actors, as the CJEU keeps reducing the possibilities for states to regulate data retention.⁸⁸ In that sense, the technical code regulating retention “*can be subsequently used both for commercial purposes and as a result of requests [...] by law enforcement authorities.*”⁸⁹ Indeed, they can request data preservation or transmission, while then norms on data retention are developed by digital actors. As a result, digital actors’ internal sovereignty materializes through the construction of the code, as their exclusive form of regulation and digital coercion.

Traditionally, external sovereignty results in the control of foreign acts in international judicial cooperation procedures. This control seems to be transferred softly to digital actors, as they concur to the interpretation of regulation under new frameworks, in particular the E-evidence regulation. The text establishes new obligations for direct cooperation to request data between one state and a digital actor from another EU member state, in a new understanding of the concept of mutual trust while recognizing digital actors’ independence.⁹⁰ The European Production Order will be “*addressed directly to the [...] service provider*”⁹¹ while the enforcing state will not always be notified.⁹² In the absence of notification, the digital actor will check the content, scope and authorization of the order, with little grounds for refusal.⁹³ Despite this restriction, in assessing the content of the request, digital actors will produce an autonomous interpretation of criteria and guarantees. Consequently, this text might create a new level of mutual recognition.⁹⁴ A mutual recognition is almost automatic, it is a proof of mutual trust in the systems of each member state.⁹⁵ However, this recognition can be discussed regarding fundamental rights.⁹⁶ Under the e-evidence regulation, these verifications will be undertaken by digital actors. Mutual trust is, thus, directed toward states and private entities, which could be interpreted as the birth of an embryonic external sovereignty for digital actors.

While digital actors’ external independence and internal regulation to exercise coercion are being developed, the “*power of the private sector [has no] clear lines of legitimacy.*”⁹⁷ Forms of coercion could be pragmatically recognized, however, its legitimacy remains questioned. Coming back to Weber’ theory, digital actors’ coercion could rest in traditional legitimacy, although not sanctioned by time duration but by their

⁸⁸ CJEU, *Tele2 Sverige AB v. Post-och telestyrelsen*, 21 December 2016, C-203/15 and C-698/15; CJEU, *La Quadrature du Net, French Data Network, Fédération des fournisseurs d’accès à Internet associatifs v. Premier ministre, Garde des Sceaux, ministre de la Justice, Ministre de l’Intérieur, Ministre des Armées*; and *Ordre des barreaux francophones et germanophone, Académie Fiscale ASBL, UA, Liga voor Mensenrechten ASBL, Ligue des Droits de l’Homme ASBL, VZ, WY, XX v. Conseil des ministres*, 6 October 2020, C-511/18, C-512/18, C-520/18; CJEU, *G.D. v. Commissioner of An Garda Síochána, Minister for Communications, Energy and Natural Resources, Attorney General*, 5 April 2022, C-140/20

⁸⁹ Article 29 Data Protection Working Party, “Opinion 1/2008 on data protection issues related to search engines”, European advisory body on data protection and privacy, 4 April 2008, p. 7, 00737/EN WP 148

⁹⁰ S. Tosza, “Cross-border gathering of electronic evidence: mutual legal assistance, its shortcomings and remedies”, in V. Franssen, D. Flore, F. Stasiak (eds.), *Société numérique et droit pénal : Belgique, France, Europe*, Bruylant, 2019, p. 278

⁹¹ Article 7.1 and 2 of the e-evidence regulation

⁹² Article 7a.1 and 2 of the e-evidence regulation

⁹³ Articles 9 and 16 of the e-evidence regulation

⁹⁴ Article 82 of the Treaty on the Functioning of the EU

⁹⁵ C.-D. Bulea, “Cooperarea judiciară în materie penală și respectarea drepturilor omului. Probleme actuale. Probele electronice”, *Caiete de drept penal*, 2021, vol. XVII, no. 1, p. 75

⁹⁶ CJEU, *Pál Aranyosi and Robert Căldăraru v. Generalstaatsanwaltschaft Bremen*, 5 April 2016, C-404/15 and C-659/15 PPU

⁹⁷ M. Kettemann, *The normative order of the internet, a theory of rule and regulation online*, Oxford University Press, 2020, p. 173

worldwide spread and their strong inclusion in individual daily habits. It could also rest in charismatic legitimacy, due to the trust in certain “*leadership qualities*” of the company or its individual representation. Finally, their coercion could rely on their users believing in the validity of the contract and terms of service or other “*practical ‘competence’*” deriving from other rules.⁹⁸ However, under a legalist interpretation, legal legitimacy is equated to state legal order. This internal legitimacy is, thus, limited to a specific norm architecture, resulting from processes to adopt norms, based on a specific understanding democracy, meaning the election of the population’s representatives.⁹⁹ However, these processes do not receive equivalent between digital actors and their users.¹⁰⁰ As digital actors gain independence that can lead to a new understanding of sovereignty, a new basis for legitimacy should be looked for.

IV. Sovereignty as an evolving theory

a. The limits of legitimacy as independence

Forms of sovereignty, by applying internal coercion through norms and by developing external relationships in implementing coercion, can, thus, appear from non-state actors. However, the verification of their legitimacy is more complex. Originally, legitimacy derived from independent internal processes to adopt norms, and an external independence to participate in the international community. By contrast, from a pragmatic perspective, globalised and digitalized forms of coercion highlight a network of influences and interconnections. From a legal perspective, external values such as human rights, according a broad understanding of the rule of law, are meant to limit the independence of sovereigns. As a result, the central value to legitimise sovereignty, independence, receives criticisms.

The independence theory relies mainly on the distinction between “the public” and “the private,” which establishes the scope of sovereign – state – powers, by excluding the public from the private, or by justifying the interference of the public into the private. As a result, the legal discipline divides between private law, supposedly not involving the state, such as family law, business law, and labour law – fields that were, historically, not even regulated by the state; and public law, supposedly involving primarily the state, such as constitutional law, administrative law, and taxation law – fields that rely on a hypothesis: the existence of states. Although this dichotomist division has long been criticized¹⁰¹, the law maintains a division between private actors and the state, that traditionally allows – or not – certain actors to act in specific spheres. According to Habermas, the public sphere is “*open to all*” for the development of politics and the state.¹⁰² On the contrary, the private sphere is where “*the individual is most in control of [their] activities and communications.*”¹⁰³

⁹⁸ M. Weber, *The vocation lectures*, *op. cit.* note 59, p. 34

⁹⁹ However, democracy as “*mere majoritarianism*” is criticized as too restrictive M.C. Nussbaum, *Creating Capabilities – The Human Development Approach*, Harvard University Press, 2013, p. 179

¹⁰⁰ S. Vaidhyanathan, *The googlization of everything: and why we should worry*, University of California Press, Updated edition, 2012, p. 13

¹⁰¹ O. Afori, “Online Rulers as Hybrid Bodies: The Case of Infringing Content Monitoring”, *University of Pennsylvania Journal of Constitutional Law*, April 2021, vol. 23, no. 2, p. 378

¹⁰² J. Habermas, *The structural transformation of the public sphere: an inquiry into a category of bourgeois society*, MIT Press, Studies in contemporary German social thought, 1989, p. 1

¹⁰³ C. Fuchs, “Towards an alternative concept of privacy”, *Journal of Information, Communication and Ethics in Society*, Emerald Group Publishing Limited, 1 January 2011, vol. 9, no. 4, p. 221

However, understanding the sovereign state as independent by dividing the public sphere from private spheres “*supports structural relationships of power,*” particularly by traditionally refusing to regulate private spheres where oppression is exercised.¹⁰⁴ Furthermore, the equality principle between independent public spheres “*overlooks the unequal power structures among states.*”¹⁰⁵ Consequently, feminist theories understood the private sphere is a public sphere¹⁰⁶ to raise feminist political values. Private spaces can implement public values, such as freedom of expression or economic growth¹⁰⁷ and justify the interference of the public sphere;¹⁰⁸ whereas public spaces can achieve other purposes than politics, such as the development of social identities.¹⁰⁹ Furthermore, this divide is a “*myth,*” as “*the state has traditionally interfered in women’s decisions about their sexuality and reproductive health.*”¹¹⁰ Consequently, “*the public and private spheres [...] exist not so much in opposition to one another, but rather in reciprocal connection with one another.*”¹¹¹

Furthermore, independence as the division of spheres is highly compromised by digitalization: “*Power [is] exercised through multitudinous non-state sources, often dependent on material or technological means of enforcement.*”¹¹² In particular, the EU relies on a “*structural dependence of key corporate players on the clouds, software, and platform infrastructures.*”¹¹³ Conversely, private actors are neither independent from states: They are framed by multiple state regulations.¹¹⁴ Legitimacy based on values such as human rights and the rule of law are particularly intermediated by EU norms,¹¹⁵ such as the Digital Services Act or the Proposal on Artificial Intelligence.

Consequently, traditionally, sovereignty relies on independence to legitimise coercion, whereas current state and non-state actors fluidly influence and implement coercion within public and private spheres. The practise of independence appears to challenge central values defended by the international community, by application of a feminist analysis, and to hide pragmatic interconnections between actors, especially to develop digitalization. As a result, this paper offers to go beyond independence as the

¹⁰⁴ D.E. Buss, “14. Going Global: Feminist Theory, International Law, and the Public/Private Divide”, in S.B. Boyd (ed.), *Challenging the Public/Private Divide*, University of Toronto Press, 31 January 1997, pp. 373-374

¹⁰⁵ *Ibid.* p. 375

¹⁰⁶ C. Amorós Puente, “Conceptualizar es politizar”, *Género, violencia y derecho*, Tirant lo Blanch, Alternativa, 2008, pp. 21-22

¹⁰⁷ C. Fuchs, “Towards an alternative concept of privacy”, *op. cit.* note 103, p. 229

¹⁰⁸ A.M. Battesti, “La coopération des plateformes”, *Legipresse*, 2019, vol. N° 61, no. HS1, p. 45

¹⁰⁹ N. Fraser, “Rethinking the Public Sphere: A Contribution to the Critique of Actually Existing Democracy”, in C.J. Calhoun (ed.), *Habermas and the public sphere*, MIT Press, Studies in contemporary German social thought, Nachdr., 1993, pp. 109-142

¹¹⁰ S. De Vido, *Violence against women’s health in international law, Violence against women’s health in international law*, Manchester University Press, 12 June 2020, pp. 166-167

¹¹¹ S.B. Boyd, “1. Challenging the Public/Private Divide: An Overview”, in S.B. Boyd (ed.), *Challenging the Public/Private Divide*, University of Toronto Press, 31 January 1997, p. 13

¹¹² J. Boyle, “Foucault in Cyberspace: Surveillance, Sovereignty, and Hardwired Censors”, *University of Cincinnati Law Review*, 1 January 1997, vol. 66, p. 187

¹¹³ D. Bassens, R. Hendrikse, “Asserting Europe’s technological sovereignty amid American platform finance: Countering financial sector dependence on Big Tech?”, *Political Geography*, 1 August 2022, vol. 97, p. 9; R. Avila Pinto, “Digital sovereignty or digital colonialism? New tensions of privacy, security and national policies”, *Sur - International Journal on Human Rights*, 16 July 2018, vol. 15, no. 27, p. 19

¹¹⁴ M. Kettemann, *The normative order of the internet*, *op. cit.* note 97, pp. 4, 47

¹¹⁵ H. Ruiz Fabri, “Droits de l’homme et souveraineté de l’État: les frontières ont-elles été substantiellement redéfinies?”, in Collectif (ed.), *Les droits individuels et le juge en Europe: mélanges en l’honneur de Michel Fromont*, Presses universitaires de Strasbourg, 2001, p. 398

central value of sovereignty, by assessing interdependence between sovereign actors as a standard to legitimise their coercion.

b. The opportunity of legitimacy as interdependence

The notion of interdependence has been traditionally linked to globalisation¹¹⁶ to highlight an interconnection among states,¹¹⁷ mainly at the economic level.¹¹⁸ However, interdependence also could be understood among all state and non-state actors. Furthermore, the economic perspective is insufficient. For instance, Black's notion of decentred regulation relies on the complementary "*recognition of the autonomy of*" sovereign entities¹¹⁹ and "*of interactions and interdependencies between*"¹²⁰ them. As a result, every sovereign actors "*should be seen as having both problems (needs) and solutions (capacities), and as being mutually dependent on each other for their resolution and use.*"¹²¹ From a feminist theory perspective, "*the recognition of interdependence, is [...] the precondition for genuine, non-exploitative, interdependence.*"¹²² This inter-individual analysis, based on women's exploitation, could actually be applied at the sovereign actors' level. This standard of interdependence could reduce competition between states and digital actors, in a pragmatic understanding of the coercive powers of each sovereign in cyberspace. The legitimacy of sovereignty could rests on partnerships and, thus, avoid competition.¹²³

To implement interdependence, especially in relation to digital actors, another concept should be reconsidered: neutrality. According to the independent states theory, in private spheres, in which state coercion is not seen legitimate, the state should be neutral, particularly through the impartiality of judges; in the international public sphere, a neutral state will not participate in a conflict between states. This neutrality principle was derived to digital actors, especially under EU law,¹²⁴ to ensure "*equal access to the network regardless of who the user is and the service that they connect to.*"¹²⁵ However, in practise, obliged technical intermediaries face political and economic pressures regarding content.¹²⁶ Additionally, digital actors excluded from this principle have been defining terms of service to discriminate over content.¹²⁷ While part

¹¹⁶ J.A. Agnew, *Globalization and sovereignty*, *op. cit.* note 14, p. 26

¹¹⁷ J. Charpentier, "Le phénomène étatique à travers les grandes mutations politiques contemporaines", in Société française pour le droit international (ed.), *L'Etat souverain à l'aube du XXIe siècle: colloque de Nancy*, A. Pedone, 1994, p. 31

¹¹⁸ J.A. Agnew, *Globalization and sovereignty*, *op. cit.* note 14, p. 104

¹¹⁹ J. Black, "Decentring regulation: understanding the role of regulation and self regulation in a 'post-regulatory' world", *Current Legal Problems*, Oxford University Press, 21 February 2001, vol. 54, no. 1, p. 108

¹²⁰ *Ibid.* p. 109

¹²¹ *Ibid.* p. 110

¹²² R. Lister, *Citizenship: feminist perspectives*, Palgrave Macmillan, 2nd ed., 2003, p. 107

¹²³ J. Chevallier, C. Jacques, *L'État post-moderne*, *op. cit.* note 4, p. 64

¹²⁴ Article 3 of the Regulation (EU) 2015/2120 of the European Parliament and of the Council of 25 November 2015 laying down measures concerning open internet access and retail charges for regulated intra-EU communications

¹²⁵ B. Thieulin, *Towards a European digital sovereignty policy*, Opinion of the Economic, Social and Environmental Council, France, 13 March 2019, p. 17; F. Pasquale, "Platform Neutrality: Enhancing Freedom of Expression in Spheres of Private Power", *Theoretical Inquiries in Law*, 1 January 2016, vol. 17, p. 489

¹²⁶ B. Thieulin, *Towards a European digital sovereignty policy*, *op. cit.* note 125, p. xix

¹²⁷ C. Canca, "Did You Find It on the Internet? Ethical Complexities of Search Engine Rankings", in H. Werthner et al. (eds.), *Perspectives on Digital Humanism*, Springer International Publishing, 2022, p. 136; D. Lewandowski, "Is Google Responsible for Providing Fair and Unbiased Results?", in M.

of the literature advocate in favour of the extension of the principle,¹²⁸ neutrality denies digital actors' powers of coercion and the embeddedness of politics in code. It negates the interdependence among sovereigns. Neutrality, currently interpreted, has a negative meaning: the absence of differential actions, based on a strict concept of equality, hiding "*categories such as gender, race or class*" to avoid "*any specific structural analysis*."¹²⁹ By contrast, a positive understanding of neutrality could include the positive obligation to protect interdependent values.

Establishing interdependent values to be protected among sovereigns could be the first step to materialize a general theory on interdependence, to legitimise sovereigns' coercion. Interdependent values could be multiple, including "*well-being, efficiency, and democracy*,"¹³⁰ or even diversity, respect, etc. However, core values, including human rights, face many interpretations depending on their context.¹³¹ Consequently, to legitimise the interpretation given to shared values, new bridges should be built among sovereigns. Collaboration among sovereign actors can lead to establish general interdependent values, and detail their implementation, depending on the balancing with other values and the potentiality of coercion. However, this process lacks institutions to develop collaboration between sovereigns. Diplomatic relationships and supranational organizations traditionally build bridges between states. The place of private actors in the international public sphere is increasing, although not officially recognized as such. Under the *sui generis* EU, new bridges are to be built, particularly under the Digital Services Act, which designs points of contact to foster contact between member states and digital actors.¹³²

Other bridges could be developed between new sovereigns and people, outside the traditional understanding of democracy, although supporting rule-of-law principles. First, individual relationships can guide sovereign in the implementation of interdependent values, to solve tensions in balancing among them.¹³³ For instance, digital actors could include users in this process. Despite "*user manageability*" still being limited,¹³⁴ the General Data Protection Regulation and the Digital Services Act create new rights for users to foster the rule of law in the regulation of cyberspace by digital actors. Particularly, the second text regulates tools for disputes between a digital actor and a user.¹³⁵ Second, plural relationships between digital actors and communities of people can support the implementation of interdependent values. These communities need to be imagined,¹³⁶ recognized and connected to sovereigns,

Taddeo, L. Floridi (eds.), *The Responsibilities of Online Service Providers*, Springer International Publishing, Law, Governance and Technology Series, 2017, vol. 31, pp. 61-77

¹²⁸ B. Bayart, A. de Cornulier, "La neutralité du net", *Pouvoirs*, 11 January 2018, vol. N° 164, no. 1, p. 129

¹²⁹ F. Schmidt, "Why Feminist Digital Policy Matters", in B. Herlo (ed.), *Practicing sovereignty. Digital involvement in times of crises*, Transcript Verlag, 2021, p. 275

¹³⁰ C. Canca, "Did You Find It on the Internet?", *op. cit.* note 127, p. 141

¹³¹ *Ibid.*

¹³² Articles 11 to 13 of Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market For Digital Services

¹³³ T. Gillespie, *Custodians of the internet: platforms, content moderation, and the hidden decisions that shape social media*, Yale University Press, 2018, p. 213

¹³⁴ M.L. Stasi, "La exposición a la diversidad de contenidos en las redes sociales: Entre la regulación o la desagregación en la curación de contenidos", *Teoría y derecho: revista de pensamiento jurídico*, Tirant lo Blanch, 2022, no. 32, p. 146; N. Elkin-Koren, "Contesting algorithms: Restoring the public interest in content filtering by artificial intelligence", *Big Data & Society*, SAGE Publications Ltd, 1 July 2020, vol. 7, no. 2, p. 4

¹³⁵ Articles 20 and 21 of the Digital Services Act

¹³⁶ B. Anderson, *Imagined communities: reflections on the origin and spread of nationalism*, Verso, Revised ed, 2006, pp. 22-23

traditionally through representation in democratic states. Mandating representation in digital actors' governance institutions and recruitment policies is unlikely, despite often been questioned.¹³⁷ In the current setting, digital sector often serves "*toxic techno cultures*"¹³⁸ relying on the "*mainstream culture [of the] white, male, heterosexual, upper and middle class*"¹³⁹ person. At the EU level, one option to build bridges with communities is developed in the Digital Services Act, through trusted flaggers. These can be a collective entity such as an NGO, with "*particular expertise*," leading digital actors to give priority to their notices to take down content.¹⁴⁰ While some have advocated for global syndicalism to connect a community, workers, with private actors,¹⁴¹ other tools of social dialog could be developed to increasingly legitimise the implementation of interdependent values by sovereigns.

V. Conclusion

Societal evolutions such as globalisation and digitalization challenge the 500-year-old theory of sovereignty, in its traditional understanding. However, such a challenge has to be placed back into the historical context of the concept. Indeed, the theory has been developed to support a specific understanding of the state and its political regime, in particular absolute monarchy. As a consequence, sovereignty equates to states in the legal discipline, and its components equate to the material elements of states. According to such an interpretation, it is clear that the concepts of the population, the territory, and the government of the states are challenged by globalisation and digitalization. However, these elements are variable: Sovereignty could look for other components. A different theory is more easily disconnected from states: the monopoly of legitimate coercion. As coercion cannot be monopolised in practise, the legitimacy of its exercise is central to qualifying entities as sovereigns. Under a state understanding of sovereignty, legitimacy relied on a closed system: Coercion would be legitimate when it was independent from external influences and absolute within the sphere of control of the sovereign entity. In applying this interpretation of sovereignty, other actors than states — digital actors — seem to apply a form of legitimate coercion. However, the recognition of these forms of sovereignty is not fully legitimate, as independence is not absolute. Independence, including the strict division between private and public spheres, seems to shrink in such a globalised and digitalized world.

Nevertheless, to renounce a core traditional concept of the legal theory could be seen as a pity: States remain major sovereign actors and leaders of international relationships. New concepts can be useful but they usually lack some perspective on their application. On the contrary, an evolution of a traditional theory would be built on its numerous previous criticisms. Its central basis of independence is still required to protect sovereigns' interests. Nevertheless, to achieve certain common goals, in

¹³⁷ E. Pariser, *The filter bubble: how the new personalized web is changing what we read and how we think*, Penguin Books, 2014, p. 96

¹³⁸ A. Massanari, "#Gamergate and The Fappening: How Reddit's algorithm, governance, and culture support toxic technocultures", *New Media & Society*, 2017, vol. 19, no. 3, p. 333

¹³⁹ C.S. Vance, "Pleasure and Danger: Toward a Politics of Sexuality", in C.S. Vance (ed.), *Pleasure and danger: exploring female sexuality*, Pandora Press ; Distributed in North America by New York University Press, 1992, p. 13

¹⁴⁰ Article 22 of the Digital Services Act

¹⁴¹ S. Olarte Encabo, "El desafío del trabajo decente en las cadenas mundiales de suministros. Respuesta internacional, estatal, sindical y social", in M.I. Ramos Tapia et al. (eds.), *Formas contemporáneas de esclavitud y derechos humanos en clave de globalización, género y trata de personas*, Tirant lo Blanch, Homenajes & congresos, 2020, pp. 91-134

particular the implementation of human rights, independence faces limits. To implement some state legislation, especially regarding cyberspace, collaboration with other sovereign entities, such as digital actors, is required. For non-state actors to build a comprehensive legitimacy in exercising coercion, they could need the intermediation of legitimacy through states that derive law from a democratic procedure based on representation. As a consequence, interdependence appears as a new grounding base for sovereignty, especially to legitimise coercion resulting from various interconnected actors. However, this criterion lacks a general theory. This study offers two leads for developing such a theory. First, sovereigns could decide on interdependent values that should rely on an interconnected implementation to legitimise coercion. Second, to define these values and to ensure the legitimacy of their implementation, new bridges should be built among the various actors of society, both those exercising coercion and those being subjected to such coercion. A new understanding of sovereignty, extended to non-state actors, could aim to be more inclusive by connecting individuals and collectives through new procedures in addition to traditional democratic representation.