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TABLE OF CONTENTS

Christoph Schmetterer: „Geheilig, unverletzlich und unverantwortlich“

Die persönliche Rechtsstellung des Kaisers von Österreich im Konstitutionalismus	2
<i>Marcel Senn</i> : Sovereignty – Some critical Remarks on the Genealogy of Governance.	9
<i>Thomas Gergen</i> : Die Verwertungsgesellschaft VG WORT: Genese und neue Herausforderungen	14
<i>Gábor Hamza</i> : Das römische Recht und die Privatrechtsentwicklung in Russland im modernen Zeitalter	20
<i>Pál Sárosi</i> : Letztwillige Zuwendungen zu frommem Zweck im christlichen römischen Reich	27
<i>Karel Schelle</i> : Die Änderungen im tschechoslowakischen Zivilverfahrensrecht in der Zwischenkriegszeit.	34
<i>Sebastian Krafczik</i> : Die Herrschereinsetzung aus der Sicht des Bartolus von Sassoferato.	39
<i>Balázs Pávölygi</i> : The First Steps of Migration Legislation and its Consequences in Hungary	44
<i>Jaromír Tauchen</i> : Einige Bemerkungen zur Entwicklung des Arbeitsrechts im Protektorat Böhmen und Mähren.	50
<i>Ewa Stawicka</i> : Criminal Courts in the Kosciuszko Uprising (an outline)	55
<i>Jiří Bílý</i> : Law in the Early Christian Church	58
<i>Stephan Schreiber</i> : Die Rechtslehre von Fichte im Kontext	62
<i>Zdeněk Koudelka</i> : Development of local administration in Moravia, Silesia and Bohemia	64
<i>Renata Veselá</i> : Czechoslovak Family Law after 1945.	75
<i>Miroslav Frýdek</i> : Leges de repetundis.	79
<i>Lucie Bendová Bednářová</i> : Delicts Against Morals Before the Regional Court in Olomouc in the End of the 19th and in the Beginning of the 20th Century	82

BOOK REVIEWS

Herbert Elzer: (I) Die deutsche Wiedervereinigung an der Saar; (II) Konrad Adenauer, Jakob Kaiser und die „kleine Wiedervereinigung“	89
Karel Schelle, Jaromír Tauchen: Grundriss der Tschechoslowakischen Rechtsgeschichte	91
Ius romanum schola sapientiae – Pocta Petrovi Blahovi k 70. narozeninám	92
Mario Pani: Il costituzionalismo di Roma antica	92
Andrea Švecová, Tomáš Gábriš: Dejiny štátu, správy a súdnictva na Slovensku	94
Adam Lityński: Prawo Rosji i ZSSR 1917–1991 czyli historia wszechzwiązkowego komunistycznego prawa (bolszewików). Krótki kurs.	95
Pocta Eduardu Vlčkovi k 70. narozeninám	96
Ján Švidroň: Právnohistorické a právnoteoretické základy práva duševného vlastníctva a jeho miesto v systéme slovenského práva	97
Schelle, K., Šedivý, M., Tauchen, J., Veselá, R.: Stát a právo v době Metternichově	97
Schelle, K., Večeřa, J., Veselá, R., Vojáček, L.: Podíl českých zemí na integračních a unifikačních snahách v Evropě	98
Jaromír Tauchen: Vývoj trestního soudnictví v Německu v letech 1933–1945	99
Karel Schelle: Liste der Literaturstellen der Rechtshistorischen Arbeiten der Juristischen Fakultät der Masaryk Universität Brno (1919–2009).	99

REPORTS FROM HISTORY OF LAW

International Conference «Roman Private Law and Legal Culture of Europe».	101
Konferenz „Entwicklung des Privatrechts auf dem Gebiet der Tschechischen Republik“.	102
Vor hundert Jahren wurde der Brüner Rechtshistoriker Prof. JUDr. Bohumil Kučera, DrSc. (1910–1979) geboren	103
110 Jahren seit der Geburt vom bedeutenden mährischen Rechtshistoriker und Numismatiker Prof. JUDr. Jaroslav Pošváv, CSc. (1900–1984).	104
Days of Law of Olomouc 2010	107

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Sovereignty – Some critical Remarks on the Genealogy of Governance

Marcel Senn¹

The Problem of Sovereignty in Focus

In sociology, legal behaviour refers to variations in the methods and the degree of governmental control of any individual conduct. Therefore we ought to ask how governmental control can be authorised to manipulate and prejudice individual behaviour. And in this way we could transfer the sociological dimension of our question into a statement of law. In legal thinking, however, the answer to this question seems, at first sight, as simple as can be: any governmental control is authorised by sovereignty. But what evidence is there? The concept behind the magic word “sovereignty” is rather complex and difficult, and the fact that we use it – perhaps too easily – demonstrates only that simplicity is methodologically often more of a rhetorical deception than a logical conception.

Sovereignty – from the medieval Latin word “*superanus*” (Steinberger 2000, 500-21; Klippel 1990, 99-103; Miethke 1999, Col. 2068-2071) – is historically based on an arbitrary introduction by Jean Bodin (Senn 2007, 230f) in the late 16th century, to establish a mere “inward” power (Lowe 2008) of monarchy. I think, that the Bodinian notion is closer to medieval tradition than to a modern understanding of secularisation, as the general scientific opinion suggests. From Bodin, it was adopted and developed by the Law of Nations from the 17th to the 19th century to become a subtle and qualified “outward” notion in international relations between states with the specific meaning of independence, as states usually used to act – and still do so – on reliance and reciprocity.

Hence it is hardly surprising that Vaughan Lowe’s analysis of the notion in the broad discussion to redefine „sovereignty“ in the context of international law, emphasises the radical uncertainty of the ambiguous word “sovereignty” (Lowe 2008, 81). He therefore defines sovereignty as a signifier rather than a legal norm, a principle or an institution of law – a signifier that is comparable to the notion “equity”, which has served and still serves to frame an inquiry about right and wrong of legal norms in relation to their social factors; and likewise, sovereignty is to indicate the search for self-determination of states in a discussion about their independence in interactions on the level of international law (Lowe 2008, 77, 81, 83).

The effort undertaken to redefine sovereignty during the last two decades is – as I see it – the result of shortcomings in the outward-conception of governmental self-determination. In the United States, for instance, the discussion has been intensified by questions on incorporating the international common law of economics into the US law system (Jackson 1998; Rahimi-Laridjani 2000), or by the discussion about the privatisation of former functions of the state (Brown/Rockman 2006; MacCormick 1995), in particular as an “outsourcing patriotism” during the Iraq War (Kennedy/Jensen 2006), or merely about some common nationalistic resentment (Franck 2000), while in Germany the discussion focused on the relationship between Germany as a sovereign nation and a member of the European Union (Besson 2004; Oeter 1995; Hillgruber 2002; Böckenförde 1999) – even with some forceful nationalistic statements (Seiler 2005; Haak 2007; Lübke 1994; Mäder 2007) – and whether the European Union should become a state in itself (Bleckmann 1997; Lewicki 2006; Cuchillo 2006; Grussmann 1993; Weber-Fas 2000). In the context of globalisation, another main theme of a more philosophical or political approach in Europe and the United States is the rapport between democracy and human rights on the one hand and national sovereignty on the other hand (Howse 2008; Weinert 2007; Walker/Spencer 2006; Jennings 2002; Salazar/Stough 2006; Petersmann 2008; Alonso/Segador 2006; Bentzien 2007; Roth 2008).

As a result, the concept of sovereignty in its philosophical, economic and political dimension still poses a challenge of great impact, demanding an analysis of this concepts’ history.

Historical Background: Bodin’s Sovereignty

The 1576 Bodinian definition of sovereignty was developed with regard to the social and political circumstances of that period. I quote from the first book of the Republic (Bodin [1576] 1955):

SOVEREIGNTY is that absolute and perpetual power vested in a commonwealth which in Latin is termed majestas [...]. And [...] the principal mark of sovereign majesty and absolute power is the right to impose laws generally on all subjects regardless of their consent [...] (chapter VIII).

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The reason for this is, as Bodin says, that the sovereign governs his state well when he is above the law and set apart from the subjects he rules over. The independence of majesty signifies godlike autonomy, as the law is

the work of the prince, and the prince [is] the image of God, it follows of necessity that the law of the prince should be modelled on the law of God (chapter VIII).

Furthermore, Bodin defines the commonwealth with reference to the model of the family as to be the origin of the commonwealth. Its principal constituent and domestic authority is comparable with sovereign authority:

Before such things as cities and citizens, or any form of commonwealth whatsoever, were known among men, each head of a family was sovereign in his household, having power of life and death over his wife and children (chapter VI).

And in Chapter II he compares the family with *the model of right order in the commonwealth, [...] so all will be well with the commonwealth when families are properly regulated (chapter II).*

From these quotations it is quite evident that sovereignty is a synonym for “majesty” for two reasons: firstly, there is the Christian idea of an omnipotent God; secondly, this idea has been bound to the legal figure of the *paterfamilias*, an anthropological topos of the sovereign husband dominating his family. The last reason had been a typical idea since Renaissance political thinking. Altogether, these two elements constitute the pattern of sole reign on power. Consequently, the Bodinian notion gives a behavioural guideline to the monarch, that his *potestas* is still derived from God’s omnipotence, and this therefore legitimates him to rule and govern the subjects – noble or common – in his kingdom. The original conception clearly differs from a modern sociological understanding of sovereignty as a secular, independent and gender-neutral power referring to a *supreme authority within a territory* (Philpott 2009), which is derived by constitutional law.

The Bodinian understanding has then been transferred to the international relationship between states, for instance, by Francisco Suarez’ apologia of the Catholic faith against the king of England and his Anglican church in 1613. Suarez says that sovereignty makes every king on earth absolutely independent against another king, so that there are as many sovereign kingdoms as there are kings; however, that there is just one real sovereign leader of the Church, that is the Pope of Rome (Senn/Thier 2005, No. 10). This argumentation embraces a modern view of the temporal power of kings combined with a traditional view of ecclesiastical affairs. For medieval political institutions and organisations do not correspond to the notion of the *state* as it has been used since the 17th century. Likewise, neither monarchs nor popes were considered to be sovereigns in a modern sense; they felt they were still naturally bound by the will of God and his divine laws and that the outcome of this commitment would be the welfare of all (Steinberger 2000, 502).

The first to come up with a theoretical understanding of an absolute sovereignty in the modern sense, and thereby breaking

with the self-conception of Christianity as a holy world, was Thomas Hobbes between 1642 and 1651 in his writings *De cive, de Corpore* and *Leviathan*. His naturalistic notion of sovereignty as pure power of the strongest referred to his nominalistic theory of recognition, that there was no truth or objectivity but mere words representing the will of any authority (Senn/Gschwend 2004, 40, 271).

This fundamental change of the concept of sovereignty was mainly caused by five events: 1. The particularisation of the Holy Roman Empire by the Great Western Schism in the 14th century, enforced by the confessionalism of the 16th and 17th century, and several steps taken to reach the 1648 peace treaty in Europe; 2. The development of political theories between the Schism and the peace treaty, for instance, by the legists such as Bartolus and Baldus, and Niccolò Machiavelli’s approach to political realism, then followed by Bodin’s treatise on the republic; 3. The experience of early colonisation with, for instance, the regulation by the Treaty of Tordesillas in 1494, as well as by several processes of separation, such as England’s separation from the pope’s overlordship in 1366, followed by the split from the Catholic Church by Henry VIII in 1534, or the Netherlands’ split from the empire and Catholicism in 1579; 4. The new understanding of creation by laws of nature instead of by God’s will. The understanding of the laws of nature, however, was more physical or mechanical than we would understand them nowadays. The concept of a modern state (in the understanding of the 17th century) was therefore expressed by the image of a precise, well functioning order of mechanical harmony like a clockwork or, according to another coeval development of the modern theory of law, by the recognition that the human body functions as a cohesive system (Senn 2008); 5. In the end, the 1789 French Revolution unleashed the basic idea that a nation is founded on nothing but its own will.

The 19th century theory of legal positivism based the concept of sovereignty on the assumption that all states were driven exclusively by *Realpolitik*, rather than by the idea of a sovereignty derived from Christian theological politics. In fact, the new conception of sovereignty was the direct opposite of its medieval ancestor. Hence sovereignty appears as one of the great problems in developing a new global society of states in international law. The sovereignty of states is thus usually opposed to the construction of a law-based universal society and institution, such as the League of Nations in 1919 or the United Nations in 1945. Both institutions were the results of the experience of the two world wars. National sovereignty therefore seems to reject any idea of cosmopolitan state welfare.

Lowe’s above-mentioned analysis – that the old notion of sovereignty is only a signifier of radical uncertainty, and therefore of no relevance for a modern understanding of an “inward” public authority, and in particular of governmental law in state – is not surprising (Senn 2007, 84). Consequently there is no longer a need for an actual guide to behaviour. We now live in “modern” societies based on individuality and economic welfare. Although I am not saying that there will not always be some political diehards who are attracted to the concept of the sovereignty of the *paterfamilias*.

The Topicality of the Concept of Sovereignty

Let us trace back the question of whether the idea of the independence of states – the “outward” aspect of sovereignty – is still of use nowadays, and if so, whether it can be combined with the “inward” aspect of a completely modern understanding of the concept of sovereignty. If we just focus on a concrete problem, for instance, environmental protection, we recognise that a solution to the problem cannot depend on national territorial boundaries. All authors agree that such problems necessarily have to be solved by a trans-national institution (Jackson 2008; Cuchillo 2006; Haedrich 2000; Odendahl 1998).

The main problem, however, is the reconciliation of the rights of individual subjects, the national-state’s sovereignty and the international order (I omit the factor of “new players in international relations” such as NGOs, national liberation movements etc. as dealt with by Suy 2002). There seems to be a kind of a broader consensus regarding this problem in recent publications, which state that a pragmatic understanding of such problems contains a dialectical aspect (Mallard/Paradeise 2009; Paulus 2008; Howse 2008; Howse/Nikolaidis, 2008; Petersmann 2008; Reisman 1990; Roth 2008; Sassen 2008; Stemplowski 2006; Goodman/Jinks 2003; MacCormick 1993; Saroshi 2005; Murswiek 1996; Zaum 2007; Kingsbury 1998; Baldus 1997; Barkin/Cronin 1994): As long as there is no globally institutionalised state of the United Nations, each individual state must represent its own institutional guarantee. To be precise, this conclusion is also true with respect to basic rights (Kingsbury 1998; Howse/Nikolaidis 2008) as well as human rights (Roth 2008 137ff, 160f; Petersmann 2008 31, 56ff; Stemplowski 2006; Reisman, however, still argued in 1990 that human rights would diminish sovereignty).

In 1993 Neil MacCormick still considered that the idea of sovereignty as the only basis of state, peace, certainty and law was nothing but metaphysical fundamentalism (MacCormick 1993, 14ff). But new approaches, such as those by Saskia Sassen (Sassen 2008) and Dominik Zaum (Zaum 2007, 226ff, 245), recognise that the tide of events related to terrorism, such as the events of 2001 in the United States, have been used to reinstate sovereignty as a tool of state building and in particular to enforce the executive powers. The consolidation of sovereignty also seems to be of some use for so-called Third World countries, as shown by Salazar and Stough (Salazar/Stough 2006, 289, 294f, 302f). Furthermore, in a brief essay about the relationship of Germany to the European Union, Dieter Wyduckel showed that, combined with the principle of subsidiarity, the understanding of national sovereignty in the sense of Bodin might be helpful (Wyduckel 2002, 541, 547, 557). In the same context, Aleksandra Lewicki recently developed a differentiated functional scheme of graduated sovereignties (Lewicki 2006, 79ff, 96ff).

A Historiographical Misunderstanding of Centralised Power

However, there is a highly relevant historiographical (not just a historical) problem behind the never-ending discussion

on the concept of sovereignty, which no one has recognised better and analysed clearer than Alois Riklin, one of the few specialists on this issue (Riklin 2006, 188ff, 221ff, 403ff). Historiographically, the Bodinian concept of one strong power in one man’s hand was just a simple theoretical element without practical relevance. Its devolvement into the specific constitution of the Holy Roman Empire of the 17th century, as done by Samuel Pufendorf in 1667 and other authors for example, generated a dramatic misunderstanding of the political reality. The constitution as well as the political functionality of the empire were still based on the Aristotelian type of conception, called *Mischverfassung* in German (mixed constitution). The *Mischverfassung* would be a more appropriate description of the real functionality of *Realpolitik*, demonstrating how several specific actors influence and steer the political, social and economic system of any reign or state, whilst the oversimplified scheme of sovereignty only centralises all powers as a fiction in order to place it in just one man’s hands. (As we all know, even dictatorships do not function in this way.) However, it identifies the centre within a political system as its legal authority.

This is therefore to say that if one conceptualises sovereignty wrongly as an absolute power in just one man’s hands, as it is often still understood in today, this would of course be an oversimplification that does not correspond to the constitutional reality. Some current models of coexisting forms of sovereignty, which are more differentiated, as the example by Aleksandra Lewicki shows, are therefore not so far from the historical practice of the 17th or 18th century, which operated quite well.

The main problem of how to transfer the political idea of a sovereign guarantee of individual rights in relation to the international or common order of law into legal regulations, in particular at the level of the national states, remains. And in the end it is a problem of the authority of law (Brus 2002; Barkin/Cronin 1994). We therefore cannot skip or ignore the sovereign states as the real actors in the international order of law, especially as long as there is no sovereignty in the organisation of the United Nations (Saroshi, 2005; in particular, Goodman/Jinks 2003, have shown how to develop the sovereignty concept as an actualised theory).

As our ancestors had to transform the medieval theoretical triad of divine, natural and territorial law into a new concrete political order, they tried to do it by using the new notion of sovereignty as the parenthesis of all power. Today we face a comparable situation, when we ought to explain the functionality of the diverse powers in political practice as the functionality of supranational entities such as the United Nations and its charter in the era of conflict with the vital national interests of the territorial states. In this case, we should also try to find a way by still using the construction of sovereignty as a signifier rather than as a legal norm or a real institution of law. (Senn 2007, 171ff., 229ff., 235ff.). The reconstruction of a common misunderstanding of “sovereign”, and the critique of its often more spontaneous than informed use, prove that it is not the concept in general but its specific use that has to be discussed and elaborated.

Bibliography

- ALONSO, A. I., SEGADOR V. G. (2006): *Globalization, Sovereignty and Local Democracy in Major Cities*. In: Eaton, D. J. (ed.) *The End of Sovereignty? A Transatlantic Perspective*. Hamburg: LIT Verlag.
- BALDUS, M. (1997): *Zur Relevanz des Souveränitätsproblems für die Wissenschaft vom Öffentlichen Recht*. In: *Der Staat* 36: 381–398.
- BARKIN, J. S., CRONIN, B. (1994): *The State and the Nation: Changing Norms and the Rules of Sovereignty in International Relations*. In: *International Organization* 48 (1): 107–130.
- BENTZIEN, J. (2007): *Die völkerrechtlichen Schranken der nationalen Souveränität im 21. Jahrhundert*. Frankfurt am Main: Peter Lang.
- BESSON, S.: *Sovereignty in Conflict*. <http://eiop.or.at/eiop/texte/2004-015.htm> (05/02/10).
- BLECKMANN, A. (1997): *Die Wahrung der "nationalen Identität" im Unions-Vertrag*. In: *Juristen Zeitung* 6: 265–269.
- BÖCKENFÖRDE, E.-W. (1999): *Die Zukunft politischer Autonomie. Demokratie und Staatlichkeit im Zeichen von Globalisierung, Europäisierung und Individualisierung*. In: *ibid.* Staat, Nation, Europa. Frankfurt am Main: Suhrkamp.
- BODIN, J.: *Six Books of the Commonwealth [1576]*. Abridged and translated by TOOLY, M. J.: Oxford: Basil Blackwell, 1955. http://www.constitution.org/bodin/bodin_1.htm (05/10/10).
- BROWN, T. L., ROCKMAN, B. A., JING, Y., SCHROTER, E. (2006): *Rolling Back the State? A Tale of Privatization in the United States and Germany*. In: EATON, D. J. (ed.): *The End of Sovereignty? A Transatlantic Perspective*. Hamburg: LIT Verlag.
- BRUS, M. (2002): *Bridging the Gap between State Sovereignty and International Governance: The Authority of Law*. In: KREIJEN, G., BRUS, Marcel, DUURSMA, Jorri, VOS, Elisabeth de, DUGARD, John (ed.): *State, Sovereignty, and International Governance*. Oxford: Oxford University Press.
- CUCHILLO, M. (2006): *From Sovereignty to Decentralization, European Integration and Global Governance*. In: EATON, D. J. (ed.): *The End of Sovereignty? A Transatlantic Perspective*. Hamburg: LIT Verlag.
- FRANCK, T. M. (2000): *Can the United States Delegate Aspects of Sovereignty to International Regimes?* In: *Ibid. Delegating State Powers: The Effect of Treaty Regimes on Democracy and Sovereignty*. New York: Transnational Publishers, 2000.
- GOODMAN, R., JINKS, D. (2003): *Toward an Institutional Theory of Sovereignty*. In: *Stanford Law Review* 55: 1749–1788.
- GRUSSMANN, W.-D. (1993): *Grundnorm und Supranationalität. Rechtskulturelle Sichtweisen der Europäischen Integration*. In: v. DANWITZ, Th., HEINTZEN, M., JESTAEDT, M., KORIOETH, S.: *Auf dem Wege zu einer Europäischen Staatlichkeit. 33. Tagung der Wissenschaftlichen Mitarbeiterinnen und Mitarbeiter der Fachrichtung Öffentliches Recht*. Stuttgart: Boorberg.
- HAACK, S. (2007): *Verlust der Staatlichkeit*. Tübingen: Mohr Siebeck.
- HAEDRICH, M. (2000): *Internationaler Umweltschutz und Souveränitätsverzicht. Eine Untersuchung zum Wandel des Souveränitätsverständnisses*. In: *Der Staat* 39: 547–569.
- HILLGRUBER, Ch. (2002): *Souveränität. Verteidigung eines Rechtsbegriffs*. In: *Juristen Zeitung* 22: 1072–1080.
- HOWSE, R., NIKOLAIDIS, K. (2008): *Democracy without Sovereignty: The Global Vocation of Political Ethics*. In: TOMER B., SHANY, Y. (ed): *The Shifting Allocation of Authority in International Law. Considering Sovereignty, Supremacy and Subsidiarity*. Oxford u.a.: Hart Publishing.
- HOWSE, R. (2008): *Sovereignty, Lost and Found*. In: SHAN W., SIMONIS, Penelope, SINGH, Dalvinder (ed.): *Redefining Sovereignty in International Economic Law*. Oxford u.a.: Hart Publishing.
- JACKSON, J. H. (1998): *The Great 1994 Sovereignty Debate: United States acceptance and Implementation of the Uruguay Round Results*. In: *Columbia Journal of Transnational Law* 36: 1–25.
- JACKSON, J. H. (2008): *Sovereignty: Outdated Concept or New Approaches?* In: SHAN W. (ed.): *Redefining Sovereignty in International Economic Law*. Oxford u.a.: Hart Publishing.
- JENNINGS, R. (2002): *Sovereignty and International Law*. In: KREIJEN, G., BRUS, Marcel, DUURSMA, Jorri, VOS, Elisabeth de, DUGARD, John (ed.): *State, Sovereignty, and International Governance*. Oxford: Oxford University Press.
- KENNEDY, S., JENSEN, L. (2006): *Outsourcing Patriotism: Privatization, Sovereignty and War*. In: EATON, D. J. (ed.): *The End of Sovereignty? A Transatlantic Perspective*. Hamburg: LIT Verlag.
- KINGSBURY, B. (1998): *Sovereignty and Inequality*. In: *European Journal of International Law* 9: 599–625.
- KLIPPEL, D. (1990): *"Staat und Souveränität"*. In: *Geschichtliche Grundbegriffe. Historisches Lexikon zur politisch-sozialen Sprache in Deutschland*, Bd. VI: 98–128.
- LEWICKI, A. (2006): *Souveränität im Wandel. Zur Aktualität eines normativen Begriffs*. KLEGER, H. (ed.): *Region-Nation-Europa*. Berlin: LIT Verlag.
- LOWE, V. (2008): *Sovereignty and International Economic Law*. In: SHAN W., SIMONIS, Penelope, SINGH, Dalvinder (ed.): *Redefining Sovereignty in International Economic Law*. Oxford i.a.: Hart Publishing.
- LÜBBE, H. (1994): *Abschied vom Superstaat. Vereinigte Staaten von Europa wird es nicht geben*. Berlin: Siedler Verlag.
- MacCORMICK, N. (1993): *Beyond the Sovereign State*. In: *The Modern Law Review* 56 (1): 1–18.
- MacCORMICK, N. (1995): *Das Maastricht-Urteil: Souveränität Heute*. *Juristen Zeitung* 17: 797–800.
- MÄDER, W. (2007): *Vom Wesen der Souveränität. Ein deutsches und ein europäisches Problem*. Berlin: Duncker&Humblot.
- MALLARD, G., PARADEISE, C. (2009): *Global Science and National Sovereignty. A New Terrain for the Historical Sociology of Science*. In: MALLARD, G., PARADEISE, C., PEERBAYE, A. (ed.): *Global Science and National Sovereignty. Studies in Historical Sociology of Science*. New York: Routledge.

- MIETHKE, J. (1999): "Souveränität". In: Lexikon des Mittelalters. Bd. VII, Col. 2068-2071. Stuttgart/Weimar: Verlag.
- MURSWIEK, D. (1996): *Souveränität und Humanitäre Intervention. Zu einigen neueren Tendenzen im Völkerrecht*. Der Staat 35: 31–44.
- ODENDAHL, K. (1998): *Die Umweltpflichtigkeit der Souveränität*. Berlin, Duncker&Humblot.
- OETER, S. (1995): *Souveränität und Demokratie als Probleme in der "Verfassungsentwicklung" der Europäischen Union. Fragen aus Verfassungstheorie und Verfassungsgeschichte an die Deutsche Debatte um Souveränität, Demokratie und die Verteilung Politischer Verantwortung im geeinten Europa*. In: Zeitschrift für ausländisches öffentliches Recht und Völkerrecht 55: 659–712.
- PAULUS, A. L. (2008): *Subsidiarity, Fragmentation and Democracy: Towards the Demise of General International Law?* In: TOMER B., SHANY, Y. (ed.): *The Shifting Allocation of Authority in International Law. Considering Sovereignty, Supremacy and Subsidiarity*. Oxford: Hart Publishing.
- PETERSMANN, E.-U. (2008): *State Sovereignty, Popular Sovereignty and Individual Sovereignty: From Constitutional Nationalism to Multilevel Constitutionalism in International Economic Law?* In: SHAN W., SIMONIS, P., SINGH, D. (ed.): *Redefining Sovereignty in International Economic Law*. Oxford: Hart Publishing.
- PHILPOTT, D. (2009): "Sovereignty". <http://plato.stanford.edu/entries/sovereignty> (05/02/10).
- RAHIMI-LARIDJANI, E. (2000): *The Instance of Commercial Regimes*. In: FRANCK, T. M. (ed.): *Delegating State Powers: The Effect of Treaty Regimes on Democracy and Sovereignty*. New York: Transnational Publishers.
- REISMAN, W. M. (1990): *Sovereignty and Human Rights in Contemporary International Law*. In: American Journal of International Law 84 (4): 866–876.
- RIKLIN, A. (2006): *Machtteilung. Geschichte der Mischverfassung*. Darmstadt: Wissenschaftliche Buchgesellschaft.
- ROTH, B. R. (2008): *State Sovereignty, International Legality and Moral Disagreement*. In: TOMER B., SHANY, Y. (ed.): *The Shifting Allocation of Authority in International Law. Considering Sovereignty, Supremacy and Subsidiarity*. Oxford: Hart Publishing.
- SALAZAR M., STOUGH R. R. (2006): *Sovereignty and Economic Development with some Examples from the Atlantic Community*. In: EATON, D. J. (ed.): *The End of Sovereignty? A Transatlantic Perspective*. Hamburg: LIT Verlag.
- SAROSHI, D. (2005): *International Organizations and their Exercise of Sovereign Powers*. Oxford: Oxford University Press.
- SASSEN, S. (2006): *Territory, Authority, Rights from Medieval to Global Assemblages*. Princeton: Princeton University Press.
- SEILER, C. (2005): *Der souveräne Verfassungsstaat zwischen demokratischer Rückbindung und überstaatlicher Einbindung*. Tübingen: Mohr Siebeck.
- SENN, M., GSCHWEND, L. (2nd ed., 2004): *Rechtsgeschichte II. Juristische Zeitgeschichte*. Zürich/Basel/Genf: Schulthess.
- SENN M., THIER, A. (2005): *Rechtsgeschichte III – Textinterpretationen*. Zürich/Genf/Basel: Schulthess.
- SENN, M. (4th ed., 2007): *Rechtsgeschichte – ein kulturhistorischer Grundriss*, Zürich/Basel/Genf: Schulthess.
- SENN, M. (2008): *Die Veränderung des Menschenbildes vor dem Hintergrund der wissenschaftstheoretischen Grundlagenforschung und deren Auswirkungen auf die Rechtstheorie der frühen Neuzeit*. In: LIEBERWIRTH, R., LÜCK, H. (ed.): *Akten des 36. Deutschen Rechtshistorikertages*. Baden-Baden: Nomos.
- STEINBERGER, H. (2000): "Sovereignty". In: Encyclopedia of Public International Law. Vol. IV. Amsterdam: North-Holland Publications.
- STEMPLOWSKI, R. (2006): *Indivisible Sovereignty and the European Union*. In: EATON, D. J. (ed.): *The End of Sovereignty? A Transatlantic Perspective*. Hamburg: LIT Verlag.
- SUY, E. (2002): *New Players in International Relations*. In: KREIJEN, G., BRUS, Marcel, DUURSM, Jorri, VOS, Elisabeth de, DUGARD, John (ed.): *State, Sovereignty, and International Governance*. Oxford: Oxford University Press.
- WALKER, Bruce, SPENCER, K. (2006): *Repositioning the State: Reflections on the Impacts of Contracting-Out on National and Local Governance*. In: EATON, D. J. (ed.): *The End of Sovereignty? A Transatlantic Perspective*. Hamburg: LIT Verlag.
- WEBER-FAS, R. (2000): *Über die Staatsgewalt. Von Platons Idealstaat bis zur Europäischen Union*. In: Munich: C. H. Beck.
- WEINERT, M. S. (2007): *Democratic Sovereignty. Authority, Legitimacy, and State in a Globalizing Age*. London: University College London Press.
- WYDUCKEL, D. (2002): *Subsidiarität und Souveränität als Prinzipien Globaler Rechtlicher und Politischer Ordnung*. In: BLICKLE, P., HÜGLIN, T. O., WYDUCKEL, D.: *Subsidiarität als Rechtliches und Politisches Ordnungsprinzip in Kirche, Staat und Gesellschaft. Genese, Geltungsgrundlagen und Perspektiven an der Schwelle des Dritten Jahrtausends*. Berlin: Duncker & Humblot.
- ZAUM, D. (2007): *The Sovereignty Paradox. The Norms and Politics of International Statebuilding*. Oxford: Oxford University Press.

