

## SOVEREIGNTY AS A RELIGIOUS CONCEPT\*

### *1. Introduction*

Carl Schmitt famously declared that “all significant concepts of the modern theory of the state are secularized theological concepts.” (1985; 36) At least with respect to the concept of sovereignty, I believe that Schmitt was right. The aim of this paper is to provide an outline of an argument for this conclusion. If my argument is effective, it might shed new light on the current state of affairs in the study of sovereignty.

Contemporary scholars writing on sovereignty can be roughly divided between those who believe that we should get rid of the concept (because it is inherently confusing, or essentially contested) and those who grant many of the criticisms of the first group, but add that we nevertheless cannot do without the concept, since much of our thinking about politics in general, and the state in particular, seems to be structured by this notion. I hope to demonstrate that much of the confusion surrounding the notion is due precisely to the fact that sovereignty is an inherently religious concept.

By saying this, I do not mean merely that the concept was one that was first used in a religious context and was later transferred to other realms. My claim is more radical: I would like to argue that if we take the concept of sovereignty seriously, we will find that there is only one legitimate candidate for the label of ‘sovereign’ and that is God. The radicalism of the thesis can be seen if we consider one of its implications, namely that the use of the concept in political discourse is illegitimate (unless it is used to refer to God).

This implication might be considered as good a basis as one can get to dismiss the thesis right from the start. For surely if it follows from the claim that the word ‘sovereignty’ has been used inappropriately more often than not in the history of (Western) ideas, this can only be due to the fact that the concept under scrutiny is not the one that theorists of sovereignty have had in mind. But this is not necessarily the case. It might well

be that most theorists have believed that the concept of sovereignty could be broadened so as to allow for individual human beings, princes or popes, to be regarded as sovereign beings, but that it is precisely this "broadening" of the concept that has brought about the theoretical problems that we experience today.

Of course, this wider historical thesis raises many other questions. How is it possible that so many people have been inclined to apply the concept even when it was seen to lead to irresolvable problems? Why have they not considered abandoning it? Is a comprehensive political theory possible without it? I believe that we can only hope to find satisfactory answers to these questions if we keep in mind, as we too seldom do, that these problems are the problems of a particular cultural tradition. In other words, we should resist the temptation to think that the problem of delineating the sovereign is one that naturally crops up whenever questions of politics are given serious consideration. Francis Hinsley thought that the concept of sovereignty had not figured at all in the history of non-European societies, except by importation from Europe. (1966; 21) If he is right, perhaps the most interesting research question regarding the concept of sovereignty is why most thinkers in the West, at least from a certain point in history, in attempts to answer the more general problem of how people can or should live together in a society, have singled out the question of who has the right—the legitimate authority—to decide how people should live as the crucial one to be answered. If the thesis that sovereignty is a secularized religious concept can be substantiated, this may be a significant step forward in answering this question. At least it would tell us where to look for an answer, namely in the influence of religion on the culture of the West. At the same time, it would explain why people in some other cultures have not conceptualised political issues in terms of a quest for sovereignty. After all, it is only the God of the three so-called "Semitic" religions (Judaism, Islam, and Christianity) that is sovereign in any fundamental sense.

The claim that sovereignty is a secularised religious concept would seem to fit well with a general tendency to situate the first theories of sovereignty in the modern period. However, theories of sovereignty existed long before Bodin wrote his *Six livres de la république* (see, e.g., Wilks 1963, Pennington 1993). Secularisation, as I will use the term, is not equivalent to the disappearance of the grip of religion on the public life,

but is a phenomenon that is internal to religion itself. This understanding of secularisation is inspired by S. N. Balagangadhara's research into the relation between religion and the culture of the West (1985, 1994, 2005). Balagangadhara has argued extensively that Christianity has constituted the culture of the West by bringing into being a specific configuration of learning. Religion does this by generating a particular experience of the world, by suggesting that the cosmos is an expression of the will of God. One of the properties of religion, according to Balagangadhara's theory, is that it strives to become unconditionally accessible to all human beings. It does this by progressively ridding itself from the features which distinguish it from other religious traditions and assuming an increasingly purely formal character with less and less specific content. (For an excellent summary of the thesis, see De Roover 2004: 4–16). The belief that God created each human being in his image, for example, has been secularised in the idea that each human being is a sovereign: a claim that, as we will see, is basic to one tradition of natural rights theories. Balagangadhara's theory has many important implications, not just for the field of religion, but also for the study of culture in general. In addition, it is incredibly productive in generating more rewarding approaches to old problems. This paper is an attempt to outline such an approach to the problems that confront us regarding the concept of sovereignty.

## *2. A definition of sovereignty*

Although sovereignty has received various interpretations and definitions, many authors would agree that there exists a core meaning. This core can be best described as "supreme normative power with a domain." Let me start with briefly commenting on each of the three elements in this definition. I consider normative power to be a more precise rendering of the more common 'authority'. Someone has normative power if he has one or several Hohfeldian powers—if he is able to control one or more normative relations. (Hohfeld 1946: 50–60) Normative power is the power to issue binding norms with respect to something, or to define the normative status of something. Having a normative power is compatible with an obligation to exercise that power, or with a duty not to exercise it. But I will assume that a sovereign also has the liberties both to exercise and not to exercise his power. Since only an agent can issue a norm, it follows that only agents can be sovereigns. This does not mean that a

sovereign must be a human being. All that is required according to the "agency criterion" is an ability to take a decision on a normative issue. An institution could be considered an agent in the relevant sense as long as there is a centre with decision-making capacity that can issue norms.

Several definitions include the idea that sovereignty must be over a territory instead of the more general "domain," but this seems too restrictive. In the tradition of grounding natural-rights theories in the idea of self-ownership, human beings are often considered to be sovereigns, merely because they have normative control over a domain that minimally comprises their minds and bodies—a domain which can be extended with the things that they have legitimately acquired. Also, one tradition of theories about the nature of rights (the so-called "will theory") has identified the idea of normative power as the common trait of any right. According to this theory, being the beneficiary of someone else's duty is not sufficient to having a right in the proper sense of the word: one must also be able to exercise control over (i.e., enforce or waive) the relevant duty. Herbert Hart, one of the foremost proponents of this theory, has used the label 'small scale sovereign' for holders of such rights. (1982; 183) Again, some social-contract theories grant that individuals can establish a sovereign by renouncing their individual natural rights. It is not immediately clear why the domain of this sovereign should be territorially defined. For these and other reasons, it seems better to use the neutral term 'domain'. Nothing is lost if we would find later that a sovereign must necessarily control a territory, but it seems unwise to take this as a presupposition when starting to think about sovereignty.

The distinguishing mark of a sovereign is that his normative control is supreme. The fact that an agent has successfully established a norm is not a sufficient ground to decide that the agent has exercised sovereignty. Normative control is supreme if it is not controlled by another agent, or, to be more precise, if no other agent has a normative capacity to interfere with the sovereign's decision to create a norm. Thus an agent is sovereign with respect to a given domain if this agent's decision to establish a norm would unfailingly result in the existence (or validity) of the relevant norm. The fact that an agent has successfully damaged a normative relation is not sufficient to establish that his control was supreme. Normative power is only supreme if no one had a normative capacity to interfere. One way of interfering with the normative power of an agent would be to eliminate

that power. So the demand that the normative power of a sovereign must be supreme implies that it must be inalienable (at least in the sense that no other agent could eliminate or restrict the relevant powers). In Hohfeldian terminology this means that the sovereign's powers (and, presumably, his liberties) must be protected by immunities against control by any other agent.

Supremacy is thus a very strong demand. Consider the power that a city council has to regulate matters in the city, to control the local police force, to raise some taxes, etc. Is this council sovereign in these respects? Some would say that it is, because ordinary citizens cannot interfere with its decisions, neither can a minister of the central government interfere with most of the decisions of the council, etc. In another sense, however, the normative power of the city council is not supreme since its powers could always be taken away by the central government. After all, a parliament could decide that it is better to centralize the regulation of police forces because it deems a centralized police force more efficient in combating crime. If we take the demand of inalienability seriously, we might have to conclude that even state governments are not sovereigns, since their powers can be taken away by the people. It is this "strong" notion of sovereignty that the classical thinkers on the subject, Rousseau and Hobbes, had in mind.

There are at least two reasons for insisting on the significance of this strong notion of sovereignty. The first one is that ascribing sovereignty to someone is often thought to have normative implications in the several contexts in which the concept functions. For libertarians the claim that human beings are sovereigns functions in an argument that denies the government a right to impose taxes on them. In international politics the sovereignty of states is a ground for demands of non-interference. For a government it may justify the former's claim to the obedience of its citizens. For separatist movements it may serve to defend their right to secede. But this normative function of the concept of sovereignty can only be made intelligible if one assumes that it is the strong notion of sovereignty that is employed in these arguments. The strong notion is, in a way, necessary to get any normative argument based on the authority of some people or peoples going.

A second reason for taking this stronger notion of sovereignty seriously is that the weaker notion might, upon consideration, seem too weak to do any of the things that we expect the concept of sovereignty to do. If the

normative powers of a city council are a legitimate reason for granting the council sovereignty in those matters in which its judgement is decisive, there is nothing in the way for allowing any normative power to count as supreme if it *can* be successfully exercised without assistance from other agents and if there are at least some agents who cannot interfere with its exercise. One conceivable route for avoiding this watering down of the notion of sovereignty would be to hold that a sovereign has to control everything within a given territory. Again, however, this territorial conception of sovereignty can only help us in making sense of the sovereignty of the city council at the expense of that of governments at other levels. If we consider the city council to be sovereign in this sense, a national government would cease to be a sovereign in the territory of the city council for the very same reason.

Who can be regarded sovereign in this strong sense? There are two natural candidates for sovereignty: some would have it that peoples are sovereign, but others believe that sovereignty is a property of individual human beings. (States are of course considered to be sovereign too, but since the strong notion of sovereignty must be able to do justificatory work, their sovereignty cannot be *sui generis*, and thus must be derived from some other agent.) However, the idea that sovereignty is a property of people is somehow difficult to sustain, unless it is assumed that peoples are constituted by individuals transferring their natural sovereignty to the people. So let us begin by examining the idea of natural sovereignty of individual human beings.

### 3. *Problems with individual sovereignty*

The tradition of regarding individual human beings as naturally having sovereignty developed at least from the late thirteenth century. In the famous poverty debate between the Franciscans and their opponents, the former wanted to show that it was possible for the Friars to live without any *dominium*.<sup>1</sup> The Friars Minor conceived of *dominium* in a very broad sense, encompassing all kinds of "dominion" or "lordship" such as property, but also any right that could be enforced against other human beings of any standing (legal or otherwise). At a certain point in the debate Pope John XXII interpreted Genesis as stating that God, before Eve was born, gave Adam dominion over the earth and all the creatures that populate it. (See the bull *Ad conditorem canonum*, 1322) If the story

is true and John's interpretation of it is acceptable, we may assume that Adam was the first human sovereign. However, there is a difficulty. Accepting the statement that God has transferred a part of his domain to Adam, if taken literally, would imply that Adam *qua sovereign* would become equal to God. (Balagangadhara 1985: 37) For this reason, no religious person could sincerely endorse this account. At most, such a person could grant that God has given Adam normative power over the earth, but not supreme normative power, because this power necessarily remains God's. This would suggest that we have to look for secular arguments to find a genuine sovereign (other than God).

Secular arguments for natural sovereignty of human beings also go back to at least the 13th century. The Dominican John of Paris argued that "lay property . . . is acquired by individual people through their own skill, labour, and diligence," and that labourers therefore have "right and power and valid lordship" (*ius et potestatem et verum dominium*) over their property. (1971: 103; see Coleman 1983 and 1985) This type of argument was to be canonized much later in what we now know as John Locke's labour theory of property. But the argument is vague, and in the specific form in which it was presented by Locke, it is clearly untenable. Locke held that we become owners of the goods we have made because we have "mixed" our labour with the natural resources that go into them. But as Nozick has pointed out, it is not clear how mixing something that belongs to us with something that does not belong to us would result in our ownership of the totality of these goods. If I own a tin of tomato juice and I pour it into the sea so that its molecules mingle evenly throughout it, have I become owner of the sea because of that? (1971: 175) On top of that, Locke simply seems to assume that we own our own labour.

Since the publication of the *Two Treatises on Government*, some three hundred years ago, Locke's labour theory, despite its obvious flaws, has exercised an enormous appeal. This signals that it has managed to capture, albeit in an imperfect way, some deep-seated intuitions about the origin of sovereignty. The reason for this, I submit, is that the idea of labour is closely associated with that of creation. This would explain why those instances of labour that most typically resemble acts of creation are the ones where we feel most secure in arguing that the labourer has a property right in the result of his labour. If Mozart hadn't composed his Paris symphony, it would not have existed. But we may still wonder why creation should necessarily give rise to sovereignty over the thing created?

Balagangadhara has suggested that this idea, that someone who has created something thereby becomes sovereign of the thing, secularises the belief that God is sovereign because He has created the universe.

The early theorists of private property rights, for example, argued that one became a *dominus* of what one creates by virtue of being its creator. If the producer did not have dominion over his creations, it was asked, who else could possibly have it? Notice though that this question really becomes intelligible, if one asks: if God does not have dominion over His creations by virtue of being their creator, who else has it? But, *secularisation* of this question results in any number of rebuttals: why should dominion over the creation be the self-evident relation between the product and the producer? Why not social fame, or glory? Why should the product belong to anyone's domain? Why do we need *dominii?*, etc. None of these rebuttals are possible with respect to the theological version. (1985; 74)

Even if we would accept the idea that creation results in sovereignty over one's creation, we are left with several problems. One of these is that, unlike God, human beings never create anything *ex nihilo*. To accommodate this, a theory that grounds sovereignty of human beings in their ability to create things will have to loosen the criteria for what counts as "having created something." Contemporary natural-rights theories trying to improve upon Locke's insight have tended to see purposeful behaviour as the source of natural rights. Unlike animals, adult human beings can act purposefully (since they have free will), and because of that they are able to exercise normative control. Such purposeful behaviour is not limited to instances that we typically call labour. Consider someone going to the cinema and taking a seat. In many places, if such a person runs from his seat to get a drink, but leaves his coat, others will interpret this as a sign that the seat "has been taken." Similarly, if an explorer discovers new land, he may plant a flag on it, and as such acquire normative control (dominion) over it. Any account of creation that is intended to cover these intuitions about natural sovereignty will have to encompass things as remotely removed from *ex nihilo* creation as the taking possession of a piece of land, and even the acquisition of property in oneself. Indeed, it has been argued by Frank Van Dun, a Belgian libertarian, that it is precisely our purposeful behaviour that makes us owners of our own bodies and minds: Van Dun writes that things are "created as means" by human beings:

*Means* are not just given to people . . . they have to be discovered, produced, invented. They are creations of the human mind. Nothing is a means in and



from itself, not even the human body. . . . Something becomes a means only when somebody transforms it from a thing into a means, *i.e.*, when somebody starts to use it purposively, to give it a certain purpose and includes it in his objectives. The one who first uses a thing creates it as a means—he is the author or *auctor* of the thing. . . . The thing is through him, and in that sense it is *of him*: as a means it arises out of him, it originates in him. (Van Dun 1983: 37–38; my translation)

The position implied in this passage is that creation is the prototypical form of the wider range of purposeful behaviour. God created the world with a specific purpose in mind, and it is precisely the purposefulness of God (“His will”) which generates normative consequences for human beings. Similarly, human beings act purposefully and this, according to the proponents of this type of natural-rights theories, makes them into sovereign beings. But if purposeful action in general is considered sufficient ground for the establishment of normative power, the theory cannot warrant that such normative power will in fact be supreme. To see this, consider first the particular case of children. Susan Okin wrote that, according to Nozick’s entitlement theory, children are the property of those who make them. (1989: 85) According to my analysis, this is not necessarily true, because the birth of children need not always be the intended result of purposeful behaviour. But the point remains valid for those cases where parents purposively “make” children. In fact, if purposeful behaviour is a ground for ownership of something, we may conclude that, since children are not yet purposeful agents, anyone who develops a purpose that includes some child may become sovereign over it (not just the parents). From this it follows that if there can be only one author of a thing, as libertarians would maintain, the child will never become sovereign over its own body. So when the child starts to use its own body purposively, the normative power implied in this behaviour cannot be supreme, since there is already someone else who holds supreme power over it.

We may go further and ask why only the first person to use a thing purposively may become sovereign over it. Our conception of sovereignty tells us that there can be only one sovereign over a thing, and our intuition regarding “creation” tells us that the act of creation brings some thing into existence. Combining these two assumptions, we arrive at the conclusion that the person who was the first to “create” some thing is the sovereign. But this inference fails to take into account the fact that human

beings never create something *ex nihilo*. Consequently it is the wider category of purposeful behaviour instead of the strict notion of creation that is supposed to ground their sovereignty. The problem with this notion is that purposeful behaviour of different agents can overlap. So if making something part of one's purposes counts as having created something, there is really no ground for the claim that one person cannot create something that has already been created by another. So different agents can "create" the same object, which would thus become part of the domains of different sovereigns.

However, it is conceptually impossible for something to be part of the domains of more than one sovereign, for no two agents can exercise supreme normative power over the same thing. Unless these agents necessarily have the same will (in which case they would cease to be separate agents), they always might issue conflicting norms. In such a case, the widened conception of creation cannot justify the normative superiority of one agent's will over another, since the respective agents are each others' equals (since both of them equally created the relevant domain). Given that two conflicting norms cannot be valid in the same domain, we must conclude that neither of the agents can be a sovereign. If human beings are equal in their capacity as purposive agents, the only way a human being could be a sovereign would be for him to be the only human being in the universe.

#### *4. Problems with sovereignty of peoples and princes*

It is easy to see that the difficulty of overlapping domains of individual human beings, cannot be solved simply by considering only peoples or princes to be legitimate holders of normative power since the problem lies in the multiplicity of sovereigns. As long as there is more than one state, this would only take the problem to another level. In as far as princes or nations are sovereign beings, they are able to create new domain for themselves. In this respect a sovereign prince or a nation is no different from the individual agents that we considered above. Instead of individual domains potentially overlapping, it would now be domains of states that potentially overlap. And that is enough for us to conclude that neither of these princes or nations would be sovereign beings. This leaves us with one possibility to consider. What if there was only one state (or one prince) on earth? Would this be a possible candidate for a human sovereign?

Again, a plausible case for the existence of such a sovereign would have to be a non-religious one. The problem with a religious argument for

the existence of human princes is equivalent to that of a religious argument for the sovereignty of individual human beings: No believer could sincerely hold that God would have transferred part of His sovereignty to a human prince. In case the account leaves the human prince subject to the higher authority of God, the validity of his government ultimately depends on its authorization by God and is thus not truly sovereign. The concomitant of this is that even if every other human being would be subject to the authority of the prince, his laws would not be considered just *per se*, and so an incongruence between his will and that of God would invalidate his rule.<sup>2</sup>

If the sovereignty of an earthly prince needs a secular justification, this rules out one traditional route of establishing the existence of such a sovereign. In medieval political and early modern thought, there existed two competing views on the origin of legitimate authority. On the one hand, there was a tradition that conceived of sovereignty as derived directly from God.<sup>3</sup> On the other hand, many lawyers and theologians thought that the power of rulers came from God through the people, and so the rule of one man over others could only be justified by the consent of the people affected by the rule.<sup>4</sup> (Again, since any ruler who was appointed by God to rule on earth was still subject to His law, no such ruler was ever considered truly sovereign.) In a secularised environment, the idea that human sovereignty comes directly from God becomes unsustainable. But the second tradition proved to be able to survive secularisation. In a culture that is also deeply influenced by the idea that all people are created equal by God, it is thus hard to see how sovereignty of an individual ruler could be justified other than by approval of those over whom the sovereign rules.

“Government by consent” can take two basic forms. Either individual people can transfer their sovereignty to a ruler or “the people” (in the singular) can rule itself. But, for our purposes, there is no need to distinguish between these two forms. The reason is that unless we believe in the existence of “a people” other than something that comes into existence by mutual agreement, both schemes require individual human beings to transfer their sovereignty to the future sovereign. Any secular justification of sovereignty has to be able to provide a “naturalistic” account of its origin and that means that it has to ground the origin in some agent. But the existence of a collective agent other than one constituted by agreement

of the individuals that are part of it has seemed utterly mysterious to most people. For such an agent to be sovereign over the people who are part of the collective, however, one should conceive its agency to be, in a sense, "more real" than that of the people composing it. This is probably why such "objectivist" accounts of nations are commonly rejected today. (Gilbert 1998: 57) So we are left with the idea that sovereignty of a prince or a people requires individual human beings to submit themselves to it, or to transfer all their normative power to the ruler (even if this ruler is the community to which they belong).

Contrary to what is often thought, however, it is conceptually impossible for an agent to transfer his natural normative power to another agent. Consequently, it is impossible to establish a sovereign prince or people through transfer of normative power. To see this we need to appreciate the crucial distinction between abandoning a part of a domain and abandoning the faculty that enables an agent to acquire a domain at all. Anyone who has exercised his natural right of appropriating a piece of land, for example, may at a certain point abandon it. If the exercise of natural normative power derives from one's purposeful behaviour regarding some object, it follows that once something ceases to play a role in an agent's intentions, his normative control over the thing also comes to an end. Given this possibility of abandoning a part of one's domain, one might be tempted to construe an agent's voluntary subjection to a sovereign as an abandonment (or transfer) of his entire domain.<sup>5</sup> But this is a mistake. Even if it were possible for an agent to relinquish all his previous intentions (or even just the ones that involved the use of any objects, including one's body), as long as one remains a purposive agent, one's future intentions will continue to entail normative control over whichever object starts to play a role in them.

Consider the example of medieval friars who aimed at abandoning all normative power. In the thirteenth century, several mendicant orders came into being which required their members to forsake not just individual property but any kind of normative power or *dominium*. This included abandoning legal entitlements in general, but it was also related to abandoning pride or even self-esteem (anything good in oneself is a gift from the Lord and thus no ground for merit). The most important element in this cluster of concepts associated with absence of *dominium* was obedience. Monks who entered a mendicant order vowed absolute obedience to their

superiors (and ultimately to God). But what is involved in observing such a vow? We might be inclined to construe observing a vow as a continuous series of acts of will. Having a free will, the monk could in principle at any time do something other than what his vow requires him to do, but as long as he persists in his compliance with his vow he continually "chooses" not to and so fulfils his obligations. Voluntarily observing a vow thus requires a constant renewal of one's intention to do so. However, this interpretation of the vow contrasts sharply with that of the principal theologians of both the Franciscan and the Dominican orders. They considered an agent's control over his will to be the ultimate form of *dominium*, which the mendicant friars wanted to renounce. They interpreted the vow as requiring the monk to surrender all his *dominium* and they thought that this implied a relinquishment of that that is most essential to one's humanity, i.e., one's own will. Listen to Pecham, a thirteenth-century Franciscan theologian:

He only perfectly abnegates himself who fully renounces his own proper will. For the will is in man's power to such an extent that it cannot be extorted by anyone else. A man can therefore offer God no sacrifice so pleasing as to cut off from himself that which is supremely his own, that is, *dominium* of his own proper will. . . . This obedience which annihilates all of man, keeping nothing of the human to himself, so that the obedient man does not live himself, but Christ in him. (*Tractatus pauperis*, quoted in Brett 1997: 13)

Portrayals of renunciation of *dominium* were not restricted to Franciscan radicals such as Pecham. Aquinas also depicted the vow of obedience as a surrender of one's will, and made it quite explicit that it implied a denial of one's being. "Nothing is more desirable to man than the liberty of his proper will. For it is by this [the liberty of his own proper will] that he is a man and master [*dominus*] over other things . . . by this even that he is master of his own actions. So that just as the man who relinquishes riches, or persons conjoined to him, denies their being; so he who foregoes the authoritative judgment [*arbitrium*] of his proper will, by which he is master of himself, denies his own being."<sup>6</sup>

I suggest that we should take these passages at face value: If sovereignty is natural for human beings, if having a will implies that this will is normatively authoritative, then the only means by which a human being can prevent himself from being a sovereign is to terminate his existence as a human being. Both Rousseau and Hobbes realized this. Rousseau tried

to accommodate the agency of individual human beings with the sovereignty of the people by claiming human beings to have two wills, a general and particular. (*Du Contrat Social*, I, 7) But (unlike God, perhaps) human beings, if they are psychologically healthy, are never seen to have more than one will, which is why this move is bound to remain unpersuasive.<sup>7</sup> Hobbes, on the other hand, was obstinate enough in his attempt to endorse the sovereignty of the Leviathan to bite the bullet and deny agency to the individuals who had joined the commonwealth. For example, he states that an individual cannot accuse the Leviathan of breach of covenant, because any act that the sovereign does is at the same time done by each and every person who is part of the commonwealth. (*Leviathan* II, 18, 2) But against Hobbes (and against the mendicant theologians) we may insist that if the will is a natural faculty of human beings, it cannot be lost either by a vow or by contract. If the will cannot be renounced in this way, and if acts of will imply normative control over those things that are involved in one's projects, no human being can subject himself to another agent (whether prince or people).

### 5. Conclusion

The most plausible secular account of sovereignty will conceive individual human beings as sovereigns. But if a sovereign acquires a domain by creating it, and if human beings are understood to create things by developing intentions regarding them, there is no guarantee that the domains of different sovereigns will not overlap. But since there can be no more than one sovereign in the same domain, multiple human beings cannot possibly be sovereign. Furthermore, since it is not possible to transfer natural sovereignty either by vow or contract, it follows that the only condition under which a human being could be a sovereign would be if he were the only agent in the universe. But since normative authority is essential to sovereignty and because such normative power can only be directed to other agents, such a demand (i.e., that there be no other agents) detracts all substantive content from the conception. We may thus conclude that it is not possible for a human being to be a sovereign.

Of course, this conclusion only holds on condition that one accepts the demand that a sovereign must be supreme in the sense I have proposed. But it may be objected that my argument—if it succeeds in demonstrating that this strong conception of sovereignty is untenable—only shows that

the broader interpretation of sovereignty is the more sensible one. Nevertheless, if I am right that we need the strong competition to make intelligible the normative role of the notion in moral and political theories, the rejection of this conception has wide-ranging consequences. For it will follow that no theory in which sovereignty functions as a basic concept is defensible. Our rejection of sovereignty as a basic concept (i.e., a concept from which the other normative concepts in the theory are derived) may allow us to give a partial answer to the question whether a moral theory can be rights-based. No theory can be rights-based if the relevant rights are derived from the supposed sovereignty of human beings. Similarly, we may say that no theory in which popular sovereignty functions as a basic concept is sound (no moral or political theory can be sovereignty-based).

The argument is also productive in raising new questions for further research. If it is indeed true that only the God of the three Semitic religions is a sovereign, why did the concept not disappear when religion ceased to be the acceptable framework in which to answer questions of moral and political legitimacy? Why does the question of who holds sovereignty continue to seem one of the most basic in political theory? Is the notion intelligible in cultures that have not been dominated by any of the three Semitic religions? In other words, what may look at first glance as a negative argument against a cluster of normative theories could be viewed as a beginning of a partial description of the culture in which those theories continue to hold sway. As such, it raises new questions: How is the seeming intelligibility of these theories connected with culturally specific conceptions of human agency? To what extent do these conceptions influence political life in the culture in which they are generally accepted? Answering these questions will, of course, be exceedingly difficult, but I hope that the preceding pages have made the project less desperate than it might seem at first glance.

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#### NOTES

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1. The argument in this section owes much to the section on natural rights in Balagadhara 1985. Parts of the following paragraphs draw on and to some extent amend views that are presented in more detail in my 2004a.
2. I have discussed this in more detail in my 2004b.
3. Most notorious were Papalists such as Augustinus Triumphus de Ancona. See, also, Giles of Rome (2004). On this tradition, see Wilks (1964), McCready (1973, 1974, 1975, 1977). See, further, Burns (1992), Figgis (1896).
4. The most important authors in this movement were Pierre D'Ailly, Jean Gerson, Jacques Almain, and John Mair. One of Almain's tracts has been translated in Burns (1997). See, further, Black (1979), Burns (1991), Oakley (1984), and Tierney (1982).
5. Abandonment and transfer are not the same thing, of course, but to make the argument less complex, it is easier to use the case of abandonment.
6. Aquinas, *De perfectione spiritualis vitae* ch. XI, quoted in Brett (1997: 14). There exists a full English translation of the treatise (Proctor 1902), but this passage is clearer in Brett's rendering.
7. The distinction between God's general and His particular will was crafted to solve the theological problem of redemption: see Riley 1988 for the historical background.

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