The Future of Sovereignty in Multilevel Governance Europe – A Constructivist Reading*

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Abstract

Multilevel governance presents a depiction of contemporary structures in EU Europe as consisting of overlapping authorities and competing competencies. By focusing on emerging non-anarchical structures in the international system, hence moving beyond the conventional hierarchy/anarchy dichotomy to distinguish domestic and international arenas, this seems a radical transformation of the familiar Westphalian system and to undermine state sovereignty. Paradoxically, however, the principle of sovereignty proves to be resilient despite its alleged empirical decline. This article argues that social constructivism can explain the paradox, by considering sovereign statehood as a process-dependent institutional fact, and by showing that multilevel governance can feed into this process.

Introduction

The 1990s have witnessed a revival of European studies with the development of a new stream of theorizing: multilevel governance. Inspired by insights from domestic and comparative politics, multilevel governance tries to

overcome some obstructive cleavages which have haunted the academic field from its emergence, notably that between intergovernmentalism and neo-functionalism/supranationalism. The notion of governance attempts to straddle the erected borders between the domestic and the international, between comparative politics and international relations, and between public and private spheres. The additive multilevel points to an attempt to encompass the seemingly paradoxical yet simultaneous processes of centralization (in European institutions) and regionalization (to subnational and private institutions) (Jørgensen, 1997a).[1] In sum, multilevel governance entails a conception of the EU as consisting of 'overlapping competencies among multiple levels of governments and the interaction of political actors across those levels' (Marks *et al.*, 1996b, p. 167). Additionally, multilevel governance pulls the private sphere into the political. Together this leads to a loss of the so-called 'gatekeeping role' of the state, as the conventional representation via state executives is curtailed (Hooghe and Marks, 2001a).[2] Hence multilevel governance eradicates the traditional distinction between domestic and international politics.

Conventionally, national politics was the realm of hierarchical structures, whereas, in the international arena, anarchy used to rule (so to speak). These logics were reflected in the common conception of the all-organizing principle of sovereignty. Sovereignty is what links the international arena to the domestic by combining independence from outside interference (external sovereignty) with authority over jurisdiction (internal sovereignty). In terms of domestic versus foreign politics, this means that the former is organized through supremacy of the government (hierarchy), whereas the latter is based on formal equality among governments (a lack of supremacy – anarchy). The modern state system can hence be conceived as having double significance: fostering a distinction between domestic and international politics, on the one hand, while providing the exclusive terms of reference to bridge the divide, on the other (Caporaso, 1996; Bartelson, 1995). As such, Westphalia signifies an international 'living-apart-together' of states, based on the doctrine of jurisdictional exclusivity as the defining element of their mutually recognized sovereignty. And this institution of sovereignty simultaneously provides the parameters for interaction between independent states.

In this context multilevel governance can be characterized as 'the world turned inside out and outside in' (Anderson, 1996, p. 135), with emerging hierarchical, authority structures outside the state for one thing, and the un-

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[1] James Rosenau has introduced the neologism 'fragmegration' to capture these 'diverse and contradictory forces' of localization and fragmentation, on the one hand, and centralization and integration on the other. For a most recent discussion and application to the European context, see Rosenau (2004).
[2] See also Section I.

dermining of intrastate hierarchical ordering due to circumvention of 'gate-keeping' for another.[3] As such multilevel governance seems to challenge both the external anarchy and the internal hierarchy element of the Westphalian principle. At the same time multilevel governance theorists in fact do not dispose of states – quite the opposite, as they argue that states will not only remain players, but even key actors in European politics (Marks *et al.*, 1995). This raises the question of how these emerging multilevel governance structures influence the sovereignty of the Member States of the EU. While the focus on governance (instead of government) moves the debate on authority away from the usual conception of sovereignty as a 'zero-sum notion' (Rosamond, 2000), it can be wondered whether the Member States can still be considered sovereign if the locus of political control has shifted and is not exclusively at the state level any more. If so, what does this say about the principle of sovereignty? If not, how does this influence the status of statehood in the EU?

While at first glance multilevel governance seems an attractive, indeed 'compelling metaphor' to characterize the EU policy process while acknowledging its peculiarities (Rosamond, 2000), it can be criticized for some lack of theoretical backbone (see, e.g., Jordan, 2001). In this article, attention is drawn to a specific conceptual lacuna in the mainstream multilevel governance literature. It will be argued that, in the search for a handle on the multi-faceted and complex processes within the contemporary polity of the EU, multilevel governance indeed provides a challenging picture of the dispersal of authority, but suffers from a lack of scrutiny of the state concept itself. It will be argued that the multilevel governance literature considers sovereignty along positivist lines, conceiving the existence of sovereign statehood as a matter of fact. This practice is in correspondence with the conventional understanding of the Westphalian constituents of supreme (internal) authority and (external) independence based on territorial exclusivity. Such an interpretation suggests that 'sovereign statehood' is essentially a descriptive concept, whose meaning consists of a corresponding state of affairs that can be measured and determined. Yet it is hard to reconcile the alleged core elements of sovereignty with the 'governance turn', with the emergence of overlapping authorities and shared competencies among a variety of actors at a variety of levels. It is 'the complex and contradictory character of contemporary patterns of fragmentation and integration, including those at work in so many contemporary states, [which] often seems quite at odds with the account of political possibility expressed in the account of state sovereignty that has

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[3] On this notion of hierarchy, see also Section I. Of course the domestic/international politics distinction has also been challenged in the transnationalist and globalization literature.

seemed so elegant and persuasive to the modern imagination' (Walker, 1991, p. 446). This paradox begs for some exploration and clarification.

This article attempts to overcome the problems of state centrism by facing the discourse and analysing the dynamics behind sovereignty, rather than simply considering it either as a given, legal fact, or 'obsolete' or 'dead'. In order to do so, refuge is sought in constructivist approaches to international relations. Such a deliberation provides an alternative and potentially more fruitful approach to account for the changing but prolonged status of the sovereignty of Member States within a multilevel governance context. It reads sovereignty and statehood as institutional facts based on intersubjective understandings, rather than as existing independently as 'brute facts' (Searle, 1995).[4] For sure, this misapprehension of sovereign statehood as a natural fact and descriptive concept is not exclusive to multilevel governance approaches, but counts for the majority of the European integration literature (Rosamond, 2000; Shaw and Wiener, 2000). However, within multilevel governance it results in a more apparent conceptual impasse because of the aforementioned direct challenge to the Westphalian ordering principle of internal hierarchy combined with external anarchy. It should be noted that this article's focus on states must not be read as a normative argument: neither as an idealization of 'the state' as the ultimate organization of political power, nor as a prediction of the tenacity of sovereign states *per se*. The main aim of this article is to tackle the coexistence of multilevel governance structures with the prolonged exercise of sovereignty by Member States.[5]

In what follows, attention will first be turned to an overview of the multilevel governance approach. There is an extensive literature on multilevel governance structures in the EU context,[6] but this article will for the greater part be based on Hooghe and Marks (2001a). This book is the most recent publication on multilevel governance and sets out to present an overview of and elaborate the essential features of the approach by bringing together several strands

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[4] For other (calls for) constructivist approaches to EU studies, see Christiansen *et al.* (2001), Checkel (1999, 2001b), Checkel and Moravcsik (2001), Jupille *et al.* (2003), Jørgensen (1997b), Pollack (2001), Risse-Kappen (1996), Shaw and Wiener (2000), Tonra (2003), and Walters (2002), as well as special issues of the *Journal of European Public Policy* (1999)*,* Vol. 6, No. 4, and *Comparative Political Studies* (2003), Vol. 36, No. 1–2.

[5] At the same time it has to be acknowledged that this is not an innocent enterprise itself. By focusing on the state, this article in a sense helps to reproduce it. After all, theory is not neutral and facts are always theory-laden.

[6] See, e.g., Christiansen (1997); Hooghe (1996b); Hooghe and Marks (2001a, b, 2003); Jachtenfuchs (1995, 1997, 2001); Jachtenfuchs and Kohler-Koch (1996); Kohler-Koch (1996a, b); Kohler-Koch and Eising (1999); Marks *et al.* (1996a, b, c); Scharpf (1994, 2001); Wallace (1999); Zürn (1999) and special issues of *Policy and Politics* (2001, Vol. 29, No. 2, and *Res Publica* (2001), Vol. 43, No. 1. For an international law perspective, see Bernard (2002). Besides EU-centric literature there is a wide collection on governance in the globalization literature.

of writing.[7] Special focus will be on their understanding of the (changing) nature of sovereignty.[8] Some parallels are drawn with the concept of neo-medievalism in IR theory. Next, attention is turned to social constructivism to analyse sovereign statehood as an institution on the basis of Wendt (1999). While it has been claimed that constructivism need not and should not be considered *terra incognita* to Europeanists (Checkel, 1999), it will be discussed at some length here as the focus is on the viewpoint of one particular author.[9] Wendt's analysis of identity formation on the basis of intersubjective understandings will prove to be clarifying for the analysis of sovereignty in a multilevel governance context. Approaching the dynamics of multilevel governance from a constructivist angle enriches our understanding of sovereign statehood within EU Europe.

I. Multilevel Governance and Sovereignty: The Positivist Puzzle

As mentioned above, multilevel governance tries to move beyond the inter-governmentalism–neofunctionalism/supranationalism debate by presenting a new 'in between'.[10] Focus is on providing a better description of the 'nature of the beast' (Risse-Kappen, 1996).[11] As such attention is moved from the *process* of integration ('where do we come from, where do we go'), to the subject itself: the European Union as a complex and dynamic institution. Consequently, it has changed position from *explanandum* to *explanans* (Jachtenfuchs, 2001; Caporaso, 1996). Rather than explaining the EU and European integration, their existence is taken as a (social) fact and attention is shifted from process to polity. As such the alleged *sui generis* character of the institution is kept in place.

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[7] A new edited volume, which brings together leading scholars on this subject, is Bache and Flinders (2004).

[8] In addition, this discussion will be based on Marks *et al.* (1995), which focuses on the influence of European integration on (the concept of) the state.

[9] Alexander Wendt is considered one of the key figures in constructivism in IR theory, and his book can be considered one of the most extensive elaborations of social constructivism (Smith, 2001; Paul, 1999; cf. Guzzini, 2000). However, it should be noted that this book is not by definition representative of other constructivist approaches, nor has it been received without criticism (see, e.g., the forum in *Review of International Studies*, 2000, Vol. 26, No.1, and an excellent review by Kratochwil, 2000).

[10] For a critical discussion of this attempt to provide an intermediate position, see Neyer (2003). Rejecting this intermediate position, George (2004) traces multilevel governance as a revival, the 'more modern and sophisticated version', and a substitution of neofunctionalism.

[11] Jordan (2001) accurately attributes this phrasing to Donald Puchala (1972, p. 267), who opens his pioneering article on international integration with the story of the blind men and the elephant, and the lively debate amongst the former to determine the nature of the beast they are 'facing'. The description of the 'European beast' Puchala comes up with – he calls it a concordance system – bears a striking resemblance to the contemporary multilevel governance analyses (Jordan, 2001; Rosamond, 2000). Unfortunately this link is left undiscussed in most multilevel governance literature. For a brief discussion of Puchala's model, see fn. 13.

Drawing on a wide collection of literature on multilevel governance, Hooghe and Marks (2001a, pp. 3–4) have distilled what they consider its three characterizing elements. First, rather than being monopolized by national governments, decision-making competencies are shared by actors at different levels. As such, supranational institutions have become actors in their own right, playing an independent part in policy-making (rather than functioning merely as agents of national governments). Second, a new mode of collective decision-making has emerged, similarly resulting in loss of control for national governments. Third, the traditional separation of domestic and international politics has been undermined because of transnational associations. Overall, one can speak of a tripartite shift of authority away from national governments: upwards, as a most direct result of European integration; downwards, because of subnational empowerment; and sideways to, for instance, public–private partnerships.[12] Accordingly, states are only one among a variety of actors influencing decision-making at a variety of levels, and do not by definition have a final say.

Thus multilevel governance comes down to the observation that, contrary to the claims of intergovernmentalism, supranational institutions increasingly have an independent impact on policy-making within the jurisdiction of Member States. Subnational and local governments have gained in importance too, resulting in 'imperfect gate-keeping' by national governments between what used to be the separate arenas of domestic and European politics. The traditional lines of communication and representation via state executives have been cut back, as multilevel governance opens up multiple points of access for interests, thus blurring the clear-cut separation between domestic and international politics. Indeed, these arenas are claimed to have become almost seamless in the EU context (Hooghe and Marks, 2001a, pp. 28, 78). What clearly distinguishes multilevel governance from supranational approaches, however, is that it does not regard the EU as (developing into) a state. The idea is not one of governance *above* the state (which would mean a reconstitution of the state with all its constituents on a higher institutional level), but rather of governance *beyond* the state (Jachtenfuchs, 1997). That is, 'beyond' in its 'inclusive' sense, as 'more than/besides the state' (rather than in its meaning of 'past', which would connote the obsolescence of the state).

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[12] The entanglement of public–private relationships is central in the analysis of EU politics as 'network governance', in which '[p]olitical reality is held to be depicted far more accurately in terms of a network that can trace the tight, compact patterns of interaction between public and private actors of the most varied nature and at the same time able to make clear that we are not, in fact, dealing with a set of pre- or subordinate relationships, but instead with a bargaining process between strategies of action being pursued by mutually dependent, but at the same time autonomous, actors' (Kohler-Koch, 1996b, pp. 369–70; see also Kohler-Koch and Eising, 1999; and Jachtenfuchs, 1995, 2001). Recently Hooghe and Marks have also included this move 'sideways' in their analysis (Hooghe and Marks, 2001b).

Marks and Hooghe distance themselves most explicitly from intergovernmentalism, contrasting multilevel governance with state-centric approaches (see, e.g., Marks *et al.*, 1995, 1996a). It should be noted, however, that despite this juxtaposition and notwithstanding the terminology of governance, multilevel governance is still a statist approach. After all the state is not only regarded as one of the relevant actors, but is still a key actor in European policy-making. Risse-Kappen's remark that multilevel governance should not throw the baby out with the bath water, as intergovernmental decision-making is not completely abandoned in EU politics (Risse-Kappen, 1996, pp. 62–3), thus seems a bit premature. Multilevel governance does not by definition rule out the option of interstate negotiation – it only means that this is not the only and inviolable method of policy-making. Theoretically, too, the state is still the main actor from which all the others are conceptualized, be it downwards, upwards or sideways. For instance the role of transnational actors is interpreted as a movement sideways, away from the state. At the same time this theoretical point of reference indicates that, according to the multilevel governance literature, the state is no longer considered to be the only significant actor and is indeed weakened by European integration. This is, amongst other things, related to the fact that the state is not a unitary actor. In multilevel governance a distinction is made between the state as an institution and state executives, who pursue their own interests – which do not by definition coincide with so-called national interests (however defined). Moreover, the state as the main actor is now involved in a network or hierarchy of complex interrelationships at the international (read EU) level, as it is in domestic politics (Marks *et al.*, 1995).

Before moving on to a discussion of Hooghe and Marks' notion of sovereignty, it should be noted that the terminology of hierarchy in the international system can be misleading insofar as it suggests some sort of linear, pyramid-like structure of sub/supra-relations, while multilevel governance by definition does not consist of such clear-cut and top-down relationships. The traditional hourglass model of nested arenas, with the state as gate-keeper at the floodgate, has so far not been replaced by a pyramid structure on top of the state (akin to a federalist structure). The authority structures seem far more complex, flexible, cross-cutting networks of governance, far more postmodern if you wish (see Wallace, 1999; Ruggie, 1998). Thus 'hierarchy' in the multilevel governance context should be interpreted in the sense that it challenges the anarchical character of the international system – hence in terms of Waltz's (1979) anarchy versus hierarchy dichotomy. Hooghe and Marks (Hooghe and Marks, 2001b; 2003; Marks and Hooghe, 2004) indeed distinguish between multilevel governance-visions type I and type II, with the latter connoting a patchwork of polycentric authorities (far from hierar-

chical) and the former coming close to federalism (hence more hierarchical, with authority moving both upwards and downwards). They emphasize that these types should be considered distinct, but not mutually exclusive. In fact, both types can be located in the contemporary EU.[13]

Overall, multilevel governance seems to combine insights from intergovernmentalism and supranationalism. But as it appears to present something in between, rejecting the 'either–or' discussion with interstate bargaining and transnational coalition-building as mutually exclusive options (Risse-Kappen, 1996) and regarding the EU as an intermediate arrangement in its own right (Anderson, 1996), where does it stand on the issue of sovereign statehood? In the early contributions to European studies, the sovereignty issue was relatively straightforward. Even though in principle both intergovernmentalism and supranationalism have a statist focus, their appraisal of it is rather divergent. Intergovernmentalism argues that integration is merely an institutionalization of close co-operation between Member States, who consciously give and take bits and pieces of their sovereignty (in areas of 'low politics') in order to improve the promotion of their national interests, including the protection of their sovereignty, in areas of 'high politics'. Along these lines the EU is considered nothing more than an international regime.[14] European integration then amounts to just a set of interstate bargains that consolidate the state system and strengthen individual states (see, e.g., Moravcsik, 1994; Milward, 1992). Supranationalism, on the other hand, sees European integration as an ongoing process which has progressed beyond the control of the Member States, leading to a loss of sovereignty and a 'hollowing-out' of the state (Rhodes, 1994, 1996) with, as ultimate outcome, the development of a suprastate structure – or, simply, a new state.

As multilevel governance supposedly is located in between these approaches, what kind of (sovereign?) state do Hooghe and Marks conceive as being compatible with the transformation of interstate anarchy through the development of hierarchical structures beyond the state? Can sovereignty be something in between too?

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[13] Now we can look briefly at the parallels between multilevel governance and Puchala's conception of the 'new descriptive model of the international integration phenomenon' (Puchala, 1972, pp. 268–9). In order to do so, consider the central elements of the concordance system he identifies: (1) 'states are among the major component units of the system, and national governments remain central actors' (1972, p. 277); however (2) '[they] are not the only important factors, [and concordance systems] may include actors in four organization arenas – the subnational, the national, the transnational and the supranational' (1972, p. 278); (3) 'there is no prevailing or established hierarchy or superordination–subordination relationship among the different kinds of actors in the system' (1972, p. 278); and (4) interaction processes vary with different issue areas – and are highly bureaucratized (1972, p. 279).
[14] In Krasner's (1983, p. 2) well-accepted definition, a regime is a set of 'implicit or explicit principles, norms, rules, and decision-making procedures around which actors' expectations converge in a given area of international relations'.

Multilevel governance theories are directed at providing an overall picture and analysis of power structures at different stages of policy-making, offering a 'sophisticated descriptive metaphor' of the EU as a type of polycentric polity (Rosamond, 1999). The focus of attention for Hooghe and Marks is indeed actual authority, rather than formal competencies. This also counts for their notion of sovereignty. While recognizing sovereignty as a core element of statehood (to which characteristics like centralization, functional differentiation, mediation of internal and external affairs are added), they explicitly reject a minimalist Weberian conception of sovereignty as a monopoly on the legitimate use of force. For this would mean that Member States uphold 'ultimate sovereignty', as they still assert a monopoly on use of force within their respective jurisdictions. The EU does not dispose of an army or police force to enforce compliance with EU law and policies. Coercive control over populations remains with states. Hooghe and Marks insist that, for the sovereignty question, political and economic sanctions should be taken into consideration too, as these constrain Member States and their room to manœuvre (Hooghe and Marks, 2001a, pp. 5–6). Thus they implicitly reject the view that sovereignty is preserved, for this does not square with what they call the 'empirical realities of politics and political control in Europe' that are at the centre of their analysis (Marks *et al.*, 1995, pp. 2–3).

In a similar manner they reject a reading of sovereignty along formal, legislative lines, as they criticize state-centric approaches for focusing solely on legal authority as the decisive resource, whereas attention should be paid to a more diverse collection of resources, including information, expertise, legitimacy and the like. They also defy the intergovernmentalist argument that states are still in control because they are the sole parties to treaties. This might be the case, they argue, but Member States have lost exclusive control over the process of treaty negotiation and ratification. Moreover, treaties are not the sole determinants when it comes to institutional exercise of competencies (Hooghe and Marks, 2001b, pp. 6–8; Marks *et al.*, 1995, pp. 5–11).

Rather than focusing on monopoly of force or formal authority, Hooghe and Marks pinpoint political control as a core-defining element of sovereignty. This control is considered sovereign when it exists independently of an external power or body (Marks *et al.*, 1995, p. 10). Individual states cannot be said to have sustained their former authoritative control over individuals in their respective territories now that important areas of decision-making have been shifted to supranational institutions, hence diluting sovereignty and weakening the state. Nevertheless, Member States remain 'deeply entrenched in the EU and play the major role in determining the basic institutional set-up' (Hooghe and Marks, 2001a, p. 45) and national state actors still command significant relative power, compared to their European, transnational and

subnational co-actors. To date, national state sovereignty has not disappeared to make way for a European sovereign state.

This alludes to how Hooghe and Marks do not seem to be able to reconcile (and in fact pay little attention to) the paradoxical developments of the weakening of the state in the course of European integration, on the one hand, and the prolonged existence and continuing importance of the state as sovereign actor, both domestically and internationally, on the other. This was not the aim of their project either, but it still constitutes a legitimate question. Hooghe and Marks do reject reification of the state, by advocating the acknowledgement of states as social institutions, varying in the degree of differentiation from their environment, as well as in the degree to which they may (and can) act coherently.[15] In this line, they suggest that '[i]f states are viewed as sets of commonly accepted rules that specify a particular authoritative order, *then one should ask* how such rules may change over time, and whether and how they will be defended' (Hooghe and Marks, 2001a, p. 74, emphasis added). This seems to connote a conception of Member States as regime-like entities in the context of the EU. Yet, with the advance of institutional features way beyond the original design, and the development of a huge and extensive body of shared norms and commonly accepted rules and decision-making procedures, the EU is more than just a regime. It is at the very least a 'saturated regime', founded on the core institution of the 'embedded *acquis communautaire*' (Christiansen *et al.*, 1999, p. 539). Besides, with a sole focus on rule-bound behaviour, and the assumption of states as self-interest maximizing actors (hence with constant identities and interests, see Krasner, 1983), regime theory holds little promise when it comes to clarifying ongoing transformation in the relations between Member States and international institutions, and emerging multilevel governance structures.

Hooghe and Marks do not try to answer this self-posed question. Their focus remains first and foremost the locus of political power – when the chips are down, which actor is 'in control'? Everything revolves around (a limitation of) the capacity to determine policy outcomes. They examine this reallocation of authority by an empirical analysis of policy documents with regard to the levels of decision-making across a variety of issue areas, as well as during different phases of policy-making. Considering a right of veto as the 'ultimate instrument of sovereignty', they conclude that decision-making pro-

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[15] Reification can be defined as 'the apprehension of the products of human activity *as if* they were something other than human products – such as facts of nature, results of cosmic laws, or manifestations of divine will. Reification implies that man is capable of forgetting his own authorship of the human world and, further, that the dialectic between man, the producer, and his products is lost to consciousness. The reified world is … experienced by man as a strange facticity, an *opus alienum* over which he has no control rather than as the *opus proprium* of his own productive activity' (Berger and Luckmann, 1991 [1966], p. 106, emphasis in the original).

cedures in the EU exemplify 'sovereignty in retreat' (Hooghe and Marks, 2001a, pp. 17, 28). This reminds us of Waltz's definition of sovereignty (who, as the leading voice of neo-realism, is a positivist *par excellence*). He links sovereignty to the capacity of a state 'to decide for itself how it will cope with its internal and external problems' (Waltz, 1979, p. 96). Overall it appears that Hooghe and Marks indeed apply a conventional, positivist approach to sovereignty, emphasizing the 'empirical realities' of policy-making in the EU as central to the sovereignty issue. Yet, as will be elaborated below, a comprehension of sovereignty as a social and political construct, existing merely by virtue of (state) practice to *accept* this institutional fact *for real*, might be more helpful when untangling the puzzle relating to emerging multilevel governance structures in the states system in EU Europe.

II. Neo-medievalism

The picture presented by multilevel governance of Member States as part of a complex structure of authority that 'escapes our conventional understanding of statehood' (Hooghe, 1996b, p. 15) bears a resemblance to what in IR theory has been called 'postmodern statehood' or 'neo-medievalism'.[16] Ruggie indeed claims that the EU might constitute the 'first truly postmodern international political form' (1998, p. 173). At one point, Hooghe and Marks mention parallels with feudalism as well: '[b]oth the feudal and the European political orders [are] characterized by multiple spheres of legitimate authority and by a corresponding propensity for individuals to have multiple, rather than exclusive, political identities (Hooghe and Marks, 2001a, p. 45).[17]

Neo-medievalism was discussed by Hedley Bull in the 1970s in his *Anarchical Society,* using it to speculate about a modern and secular equivalent of the universal political organization as operated in medieval western Christendom. In this system no ruler or state was supreme over a given territory *cum* population, and authority was shared with both vassals underneath and Pope and Emperor above. Apart from the theocratic foundation of authority, making an absolute return to the medieval mode far-fetched, 'it is not fanciful to imagine that there might develop a modern and secular counterpart of it that embodies its central characteristic: a system of overlapping authority and multiple loyalty' (Bull, 1995 [1977], p. 245).

If the modern Westphalian state is characterized as unitary, and the ultimate centre of authority, both nationally and internationally, then postmodern

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[16] See also Anderson (1996); Jachtenfuchs (1997); and Wæver (1995, 1996). For a critical analysis of the (neo)-medieval analogy, see Friedrichs (2001).
[17] See also Table 2.1 in Hooghe and Marks (2001a), and the discussion of 'type II' in Hooghe and Marks (2001b, 2003) and Marks and Hooghe (2004).

states operate 'within a much more complex, cross-cutting network of governance, based upon the breakdown of the distinction between domestic and foreign affairs, on mutual interference in each other's domestic affairs, on increasing mutual transparency, and on the emergence of a sufficiently strong sense of community to guarantee mutual security' (Wallace, 1999, p. 506). One element of postmodern statehood is that sovereignty is considered to be increasingly 'held in common', 'pooled among governments, negotiated by thousands of officials through hundreds of multilateral committees, compromised through acceptance of regulations and court judgements' (Wallace, 1999, p. 519). The once pivotal rule of non-intervention has been replaced by more or less legitimized mutual (non-military) interference in each other's domestic affairs. The sacrosanct Westphalian principle of sovereign rule based on jurisdictional exclusivity has been abandoned.

Indeed, when Bull was providently discussing a qualified return to medieval structures of political organization, he conceived such a system of overlapping authorities as signifying the end of sovereignty. He defines a neo-medieval form of universal political order as one where states share their authority to such an extent that 'the concept of sovereignty cease[s] to be applicable', and is 'recognised to be irrelevant' (Bull, 1995 [1977], pp. 246, 256). What could there possibly be left for the concept of sovereignty, if the state is indeed in the process of losing both its authority to the inside and its 'hard-shell' towards the outside (Christiansen, 1994)? Even if the descriptive fallacy of qualities like 'supreme authority' and 'hard-shell' is recognized (Werner and de Wilde, 2001), the emerging multilevel governance structures with the concomitant dispersion of authority amongst a variety of actors, at the face of it seem to cut right through the sacrosanct sovereign heart of Member States. And yet again, the persistence of the doctrine of sovereignty can hardly be overlooked either. Therefore, while Bull was right in his anticipation, he seems less so in his conclusion. Presumably this is a consequence of his conception of states and sovereignty as more or less empirical entities and features – that is, 'independent political communities each of which possesses a government and asserts sovereignty' (Bull, 1995 [1977], p. 8).

Such a parallel to (a recurrence of) medieval structures in any case concedes that, contrary to the not uncommon idealization of the modern (Westphalian) state and despite its inertia, the sovereign state should not be mistaken for a 'natural', consequently unchangeable, being (Anderson, 1996). Reification misses the crucial point. As Walker stresses, sovereign statehood, with its 'patterns of inclusion and exclusion' should be conceived as the historical innovation it is. Irrespective of its appearance of naturalness and ensuing inevitability, sovereignty must be understood in the context of complex political practices of modern states, which are far from natural or inevitable

themselves. In order to try to demystify and comprehend 'the minute rituals through which states are constantly made and remade' (Walker, 1991, p. 452, 1993), constructivism provides some clarifying insights.

III. A Constructivist Perspective

The point of departure for constructivism is a fundamental distinction between the natural and the social world. Whereas the former consists of physical, 'brute' facts, the latter exists first and foremost by virtue of 'institutional facts', that is, 'facts that are only facts by human agreement' (Searle, 1995, p. 12). As such, social constructivism distances itself from a positivist stance: 'even our most enduring institutions are based on collective understandings, … they are reified structures that were once upon a time conceived *ex nihilo* by human consciousness … [which] were subsequently diffused and consolidated until they were taken for granted' (Adler, 1997, p. 322).

This appreciation of international relations as a 'social reality', constructed by means of human conventions and intersubjective understandings, forms the basis of Wendt's constructivist approach to international politics (Wendt, 1999; see also Wendt, 1987, 1992, 1994, 1995; and Wendt and Friedheim, 1995). In a nutshell it comes down to a notion of the being (identity and interests) of social entities (read states) as relational and emerging from structures, which consist of shared knowledge, material resources, and practices (Wendt, 1995). Structures, in turn, are not exogenously given, but emerge through process (interaction). It is through interaction and practice that shared meanings arise, which create structures that successively affect behaviour and constitute identities. Thus, key structures are intersubjective, social rather than material, and as such have no existence apart from process. Still this does not mean that subjectivity is all there is to it in world politics: 'The key here is recognizing that materiality is not the same thing as objectivity. Cultural phenomena are just as objective, just as constraining, just as *real* as power and interest. … The point is that the real world consists of a lot more than material forces *as such*' (Wendt, 1999, p. 136, emphasis in the original). There is indeed something connoting 'reality', but more than from physics it stems from social action – the objectivity of social structures depends on shared knowledge rather than mere firm facts. Hence institutional facts are objective in the sense that they exist independently of individual preferences, evaluations or moral attitudes (Searle, 1995, pp. 2–3, 27).

Subsequently, structure has no meaning outside of a (state) practice to accept certain concepts and institutions as a basic rule in international politics. More than the distribution of power (see Waltz, 1979) it is the 'distribution of knowledge' (Wendt, 1999, p. 140) that determines how states relate to

and act towards each other. Thus, there *is* a real world out there, and it consists of physical, 'brute' facts and institutional facts alike (Wendt, 1999, p. 110; Wendt and Friedheim, 1995).

Wendt rejects the (neo)-realist reifying premise of 'a state = a state = a state', which hence can be taken as given, as an independent variable or an historical black box. On the contrary, identities and interests are to be considered as inherently relational and, consequently, changeable. This should not be read as if they are highly flexible and fluctuating. Quite the opposite, as structure, once developed, tends to support certain behaviours while discouraging others. Intersubjective constructions confront actors as 'obdurate social facts' (Wendt, 1994, p. 389). This non-malleability of social structures is reinforced because actors have an interest in stable identities, and subsequently intersubjective understandings and expectations are self-perpetuating (Wendt, 1992, p. 411).

Irrespective of explicitly rejecting neo-realist statism, conceived as blackboxing, Wendt's approach can still very much be considered statist itself (as he happily admits) for states do indeed remain central to his theory. It is statist insofar as he believes that, at least in the medium run, sovereign states will remain the main actors in the international system, not least since they remain extremely jealous of their sovereignty. This does not necessarily challenge the relational character of identities of actors in the international system as, so he asserts, transition to new structures of global authority will (have to) be moderated through the sovereign state. As such, Wendt still considers state identity and interest as dependent variables and advocates 'historically progressive statism' (1992, p. 425).

Essentially, interaction forms the foundation of social reality. Generally speaking, interaction can be considered as influencing these identities in two distinct ways. Again, there is a close connection between what actors *do* and what they *are*. On the one hand, both interaction and identity play an important role in preserving the *status quo* of sovereign states. States can be considered self-fulfilling prophecies. This is not just because of an interest in self-preservation, but even more so because of process. Interaction does not merely bring about identities, but sustains them too. While it may very well be that states are committed to egoistic identities, and that structures constituting them are rather resilient, this has little bearing on the fact that they are continuously in process. When states are communicating (by means of state officials), they are not only pursuing selfish goals, '[t]hey are also instantiating and reproducing a particular conception of who they are' (Wendt, 1999, p. 341), and so participate in joint constitution of their identities and counter-identities. When entities interact in their quality as states, their identity as sovereign states is (re)confirmed. Even when identities and interests remain relatively stable,

this very constancy is *endo*genous to interaction, not exogenous (as, for instance, rational choice and regime theorists, and arguably also multilevel governance theorists assume).[18]

Identities are always in process, always an achievement of practice and thus the boundaries of the Self (read the state) are in principle always 'at stake'. This is where the second dynamic of interaction comes into the picture. Because identity and interests remain dependent variables in process, this allows for *collective identities* (read the EU) to emerge from co-operation. This holds that, as a result of interaction and shared meanings, a sort of 'super-ordinate identity' would develop, above and beyond the state, blurring the boundary between Self and Other and generating interests being defined on account of 'us as a team'. It should be noted that this not only refers to such a 'visible' (for symbolized) collective as the European Union. Also membership of the 'society of states', with the accompanying norms and institutions (one of the most fundamental ones being sovereign equality), forms a collective identity if states adhere to them not out of pure self-interest, but because they have internalized the norms and identify with them (Wendt, 1999, pp. 229, 305, 242). This also follows from the conventional definition of 'international society' in IR theory, i.e. a setting in which states are 'conscious of certain common interests and common values, [and therefore] form a society in the sense that they conceive themselves to be bound by a common set of rules in their relations with one another, and share in the working of common institutions' (Bull, 1995 [1977], p. 13).

Wendt's approach can be useful in the discussion about multilevel governance and sovereignty, especially because of his focus on how state identity is both constituted and reinforced, *and* can be transformed through interaction. Sovereignty is first and foremost part of what Wendt calls a state's social or role identity. Role identities do not derive from intrinsic properties, but exist only in relation to others, who *vice versa* possess relevant counter-identities. Shared expectations and collective understandings are pivotal: role identities cannot be enacted unilaterally. Sovereignty is part of a role identity as it can be conceived as a status granted by fellow-states by means of recognition. It is recognition (as intersubjective understanding) that makes sovereignty, besides being a supposed feature of individual states, an institution shared by many.[19]

This relational character of sovereign statehood also follows from the fact that it makes little sense to speak of sovereignty as 'exclusive authority' over

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[18] Checkel (2001a) argues that this is due to the fact that multilevel governance has similar social-theoretic foundations as rational choice and regime theorists, that is an individualist ontology combined with an instrumental logic of action (see also George, 2004).

[19] For a more extensive and critical discussion of Wendt's approach to sovereignty as both an intrinsic feature of individual states and an institution amongst states, see Aalberts (2002).

space when there are no other actors from whom this authority needs to be distinguished or excluded (Wendt and Friedheim, 1995). Indeed, claims of external sovereignty 'presuppose a specific audience – an international society which recognizes the distinction between internal and external as valid and acts upon the belief in the existence of that distinction' (Werner and de Wilde, 2001, p. 288).

Such a constructivist conception of sovereign statehood, appreciating its quality as an institutional fact and its contingent feature (that is, process-endogeneity), could be helpful in our attempt to clarify 'what is going on in Europe' in terms of sovereignty and multilevel governance.

IV. Multilevel Governance and Sovereignty: The Constructivist Key

This article should be envisaged as a preliminary theoretical elaboration of the potentialities of a merger between multilevel governance theories and social constructivism to analyse the condition of sovereign statehood within EU Europe. To recap, multilevel governance approaches provide a descriptive analysis of emerging structures of policy-making in the EU. While multilevel governance seems to capture the mood of these postmodern times, with fluidity, uncertainty and multiple modalities of authority thriving (Rosamond, 2000; Jordan, 2001), Hooghe and Marks pay relatively little attention to its bearing on the sovereignty of the Member States. Rather, they interpret sovereignty foremost along the traditional lines of the supreme locus of political control, autonomy and exercise of actual authority. This focus on the 'empirical realities' of politics reveals a positivist approach to the sovereignty issue. Whereas Hooghe and Marks distance themselves from supranationalism, and explicitly reserve a key role for Member States in the policy process, sovereignty, in their analysis, is clearly undermined by multilevel governance when benchmarking it against effective and exclusive control. Because of this positivist approach (taking sovereignty as an objective, 'hard' fact), their analysis cannot account adequately for the endurance of sovereign statehood within the emerging hierarchical structures in the European arena.

Christiansen (1997) endorses a constructivist turn in order to analyse the reconstruction of European space. Thus, his analysis is focused mainly on change (*viz.* regionalization), as in most constructivist approaches to EU studies. However, just as important from the perspective of this article is the attention to continuity, while acknowledging the constructed nature of the state (hence rejecting reification). So although Christiansen is indeed right in claiming a change in the traditional image of the state, hence explaining the attraction of multilevel governance approaches as it allows us to 'talk EU politics' without being confined to the idealized language of statehood, this still leaves

unanswered the question of the survival of sovereign statehood as an institution in the apparently counteracting environment of multilevel governance. This is not to underestimate or trivialize the far-reaching and fundamental changes in territorial politics, but the puzzle remains. And as mentioned earlier, multilevel governance theorists remain remarkably silent on the specific relation between multilevel governance and the sovereign state.

In my view constructivism can account for both change and for 'continuity in change'.[20] This is not the same as continuity as such – both multilevel governance and social constructivism convincingly show the limitation of such a viewpoint (as advocated by intergovernmentalism). Moreover, this is not to rule out the option of surpassing the national sovereignty discourse, nor is it a denial of the processes of Europeanization, both of which are central to the contemporary debate within the academic discipline. Instead, it has been argued that both apparently incompatible dynamics can indeed exist simultaneously. By regarding both state identities and interstate structure as endogenous to process, and by taking sovereignty to be an indeterminate social construct, based on shared understandings and interaction, constructivism has indeed a better chance of reconciling the development of multilevel governance and postmodern statehood parallel to a continuing significance of the sovereignty principle. Such a constructivist perspective links multilevel governance back to process, rather than conceives it as independent thereof (see also Christiansen *et al.*, 1999).

Particularly useful is Wendt's discussion of the social (role) identity of states. The ensuing disclosure of the relation between interaction, institutions (embedded intersubjective understandings) and identity could further our discussion about sovereign statehood within multilevel governance structures. Focus should be on the intersubjective meanings that emerge through interaction and constitute both states and their sovereignty and which, despite, as well as due to, process are rather obdurate social facts. Obdurate indeed, but still *social* (in Searle's terminology institutional) facts, and hence invariably in process, dependent on practice, and as such always 'at stake'.

Thus when Walker (1991, p. 458) claims that '[a]s a practice of states, it [sovereignty] is easily mistaken as being their essence', my suggestion would be that it is not mistaken for being their essence, but rather that this 'essence' does not exist apart from practice and mutual understandings. On the contrary, the 'essence' of sovereign statehood is easily mistaken as being exog-

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[20] This resembles Wæver's notion of 'change within continuity'. However, he refers to changing policies within a stable, statist environment, which is indeed constructed but has gained stability through its 'higher degree of sedimentation' (quoted in Diez, 2001, pp. 14–15). Focus is then, as Diez explains, on discursive structure – whereby the branches, i.e. specific policies, change without so much affecting the trunk. On the contrary, emphasis in this article lies with the role of (discursive) practice behind the basis (trunk) itself.

enous to process and independent from practice. It is rather futile to analyse whether Member States of the EU are still '*really* sovereign' – for 'the reality of sovereignty consists in its use and acceptance' (Werner and de Wilde, 2001, p. 304, emphasis in the original). As long as states accept and *act* upon each other as being sovereign, they *are*. In essence, this is what their individuality entails.

In terms of multilevel governance, this means that it can be pictured as an emerging structure – i.e. an institutional arrangement among public and private actors – and process or practice, at the same time. Or, in more accurate constructivist phrasing, multilevel governance is an emerging intersubjective structure *due to* and endogenous to process and interaction. Both dynamics of interaction as discussed by Wendt are at work in the EU context. On the one hand, European integration can be conceived as an instance of collective identity formation among its Member States. This general idea can be traced back to Karl Deutsch. In the 1950s he pointed out the likelihood of the formation of new (security) communities on the basis of a 'shared identity' as a consequence of increased social interactions within the EC context (cf. Deutsch, 1953; Deutsch *et al.*, 1957; see also Adler and Barnett, 1998). He has therefore been considered as foreshadowing a constructivist notion of European integration (Katzenstein *et al.*, 1998).[21] In Wendt's terminology, interaction and mutual understandings bring about certain institutional arrangements (here, both intergovernmental and supranational institutions and multilevel governance structures) which, in turn, have a bearing on the boundaries of Self (here, the sovereign state). It should be noted that this would be the case even if intergovernmentalism were right in its claim that European integration is but a far-reaching institutionalization of co-operation among sovereign states. After all, even when identities and interests remain relatively stable, this constancy is still endogenous to interaction. Indeed the multilevel governance literature highlights that the boundaries of Self (read the sovereign state) are at stake, rather than the disappearance of identity (supranationalism) or the invariable continuation of yesterday's identity (intergovernmentalism).

On the other hand, individuality itself is not in jeopardy. Here, the second dynamic of interaction comes into play. In the course of their interaction, Member States are still constituting and reconstituting their mutual identities as sovereign states. While interaction in terms of multilevel governance influences the identities of Member States, this does not impact upon their individuality as such, because of a simultaneous sovereignty discourse. Sovereignty as an institution belongs to a 'sedimented discourse' – a discourse that, as a result of political and social practice, has become relatively permanent

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[21] See also Adler (2002, p. 99), who has developed a sort of pedigree of constructivist academics that can be related back to Karl Deutsch and Ernst Haas.

and durable (Howarth, 1995, pp. 127–8, 132). In their interaction within multilevel governance structures, states are reconstituting in the meantime their mutual quality as sovereign states.[22] This is one rather blunt reason why, despite the independent influence of both EU institutions and sub- and transnational actors, as well as the extensive transfer of competencies to supranational actors, sovereignty to date has not withered away to make way for a European sovereign state, nor for the disappearance of sovereign Member States (see Wæver, 1995; Werner and de Wilde, 2001). A constructivist reading of the endurance of sovereign states within ostensibly incompatible and undermining multilevel governance structures then justifies a preliminary conclusion that 'insofar as sovereignty is a matter of collective intentionality, in the final analysis, so, too, is its future' (Ruggie, 1998, p. 870).

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[22] There are different ways in which constructivists try to analyse such processes of (re)constitution through social interaction (see Finnemore and Sikkink, 2001). Within the context of European integration, some use, for instance, the concept of 'socialization' and complex social learning (see Checkel, 2001b), with a focus on the 'logic of arguing' and deliberative argumentation (see Risse, 2000), whereas others consider Europe as a 'discursive battleground' and emphasize a deeper constitutive dynamic of discourse (see Diez, 2001).

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