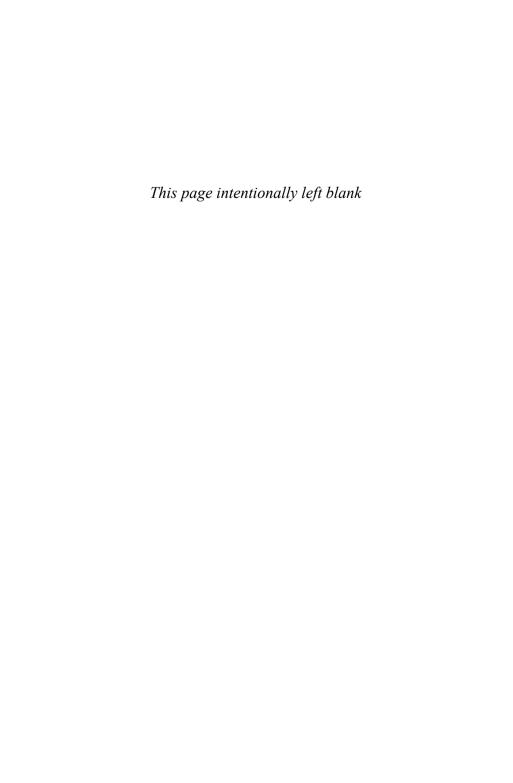COMPLEX SOVEREIGNTY:
RECONSTITUTING POLITICAL AUTHORITY
IN THE TWENTY-FIRST CENTURY

The end of the Cold War, as well as recent progress towards economic integration among countries in various regions, revolutionary advances in communications technologies, and the rapid emergence of global social networks, has resulted in profound transformations in structures of political authority around the world. The role of the modern nation-state continues to be crucial, especially for the production of public goods such as security and welfare, yet states cannot address the most pressing problems facing their own citizens without moving away from traditional understandings of sovereignty itself.

Complex Sovereignty is an original, collaborative study crossing the disciplines of political science, international relations, sociology, and political economy. The essays in this volume examine the meaning of 'complex sovereignty' through a set of conceptual and empirical studies on such topics as governance in the European Union and North America, the emergence of public-private partnerships, the adaptation of established international organizations, and the search for innovative mechanisms to manage risk. Together they elucidate a fascinating and vitally important struggle to give coherence to a complicated governing system of multiple and overlapping hierarchies.

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Complex Sovereignty: Reconstituting Political Authority in the Twenty-first Century

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Printed on acid-free paper

Contents

Acknowledgments

This book originated in the beautiful garden of the Munk Centre for International Studies at the University of Toronto, during the time that Edgar Grande held the DAAD Distinguished Visiting Professorship in German and European Studies.

In the spring of 2002 colleagues from both sides of the Atlantic were invited to join the editors in developing the idea of 'complex sovereignty.' Most of us met again half a year later in Munich. A lengthy process of writing and revising chapters under the guidance of the editors and two anonymous referees followed.

As the book evolved, the Munk Centre lived up to its reputation as an incubator of collaborative scholarship. The Technical University of Munich, where Edgar Grande was then based, provided a congenial venue for our second meeting. Our meetings were made possible by the German Academic Exchange Service/Deutscher Akademischer Austausch Dienst (DAAD), the Centre for International Studies at the University of Toronto, and the Chair for Political Science at the Institute for Social Science, Technical University of Munich.

Peter Katzenstein and Janice Stein attended the Toronto meeting and helped considerably in opening the path to new research and writing. For organizational assistance and copy-editing, we thank Tina Lagopoulos, Kate Baltais, and Harold Otto. Joanna Langille enthusiastically helped us move the project to its concluding stage and, among other things, compiled the list of acronyms. Nisha Shah made fundamental contributions over many months to the preparation of the final manuscript; we look forward to watching her own promising scholarship in this field develop in the years ahead. Finally, we thank Virgil Duff,

Stephen Kotowych, and Anne Laughlin of the University of Toronto Press for their enthusiasm and encouragement. On behalf of all the contributors, we dedicate this book to our students.

Abbreviations

APEC	Asia-Pacific Economic Cooperation
ARENA	Asian Regional Exchange for New Alternatives
BCBS	Basel Committee on Banking Supervision
BSP	Biosafety Protocol
CAC	Codex Alimentarius Commission
CAP	Common Agricultural Policy
CBD	Convention on Biological Diversity
CCT	Consultative Committee for Telecommunications
CEER	Council of European Energy Regulators
CEN	European Committee for Standardization
CHIPS	Clearing House Inter-bank Payments System
COP	Conference of Parties
CPGR	Commission on Plant Genetic Resources
CPSS	Committee on Payment and Settlement Systems
CRMPG	Counterparty Risk Management Group
CSCE	Council for Security and Cooperation in Europe
CTG	Committee on Trade in Goods
CUFTA	Canada–U.S. Free Trade Agreement
DFAIT	Department of Foreign Affairs and International Trade, Government of Canada
EC	Commission of the European Union
EEC	European Economic Community
ECOSOC	Economic and Social Council, U.N.
EEA	European Environmental Agency
EMEA	European Agency for the Evaluation of Medicinal Products
EU	European Union

FAO	Food and Agriculture Organization, U.N.
FATF	Financial Action Task Force, FSF
FDA	Food and Drug Administration, U.S.
FSF	Financial Stability Forum
G-7	Group of Seven
G-8	Group of Eight
G-10	Group of Ten
G-20	Group of Twenty
G-22	Group of Twenty-Two
GAAP	Generally Accepted Accounting Principles
GAO	General Accounting Office, U.S.
GATT	General Agreement on Tariffs and Trade
GMO	genetically modified organism
IAIS	International Association of Insurance Supervisors
IASB	International Accounting Standards Board
IATRC	International Agricultural Trade Research Consortium
ICANN	Internet Corporation for Assigned Names and Numbers
ICSID	International Convention on the Settlement of Investment Disputes
IFAC	International Federation of Accountants
IJC	International Joint Commission
ILO	International Labour Organization
IMF	International Monetary Fund
INGO	international non-governmental organization
IOSCO	International Organization of Securities Commissions
IPPC	International Plant Protection Convention
ISO	International Organization for Standardization
LTSC	Land Transportation Sub-committee
MCC	Millennium Challenge Corporation
NAEWG	North American Energy Working Group
NAFTA	North American Free Trade Agreement
NIEO	New International Economic Order
NORAD	North American Air Defense Command
ODA	official development assistance
OECD	Organization for Economic Co-operation and Development
OIE	Organisation Internationale des Épizooties
ONP	open network provision
PCT	Patent Cooperation Treaty
PPBS	Planning, Programming, and Budgeting System

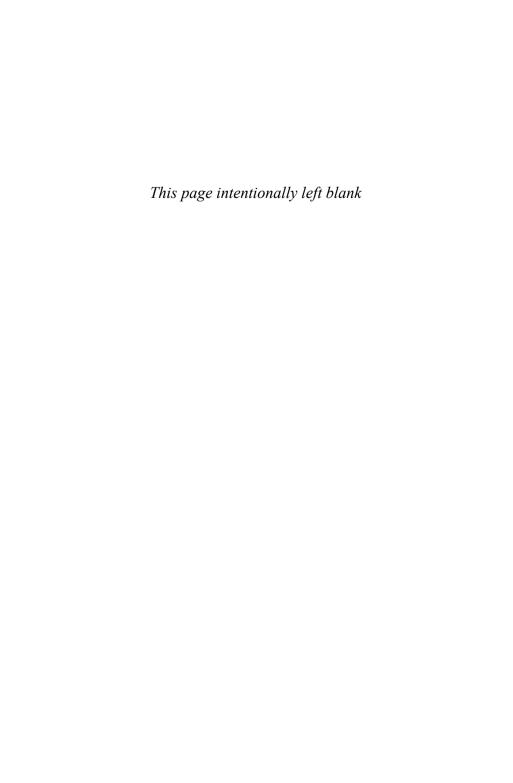|	
PPP	public-private partnership
PPPN	public-private policy network
PRSP	Poverty Reduction Strategy Paper
ROSC	Report on the Observance of Standards and Codes
SICE	Foreign Trade Information System
SPS	Sanitary and Phytosanitary
TRIPS	Trade-Related Aspects of Intellectual Property Rights
TSSC	Telecommunications Standards Sub-committee
UNA-USA	U.N. Association of the U.S.A.
UNCED	United Nations Conference on Environment and Development
UNCITRAL	United Nations Commission on International Trade Law
UNCTAD	United Nations Conference on Trade and Development
UNDP	United Nations Development Program
UNESCO	United Nations Educational, Scientific, and Cultural Organization
UNHCR	United Nations High Commissioner for Refugees
UPOV	International Union for the Protection of New Plant Varieties
USAID	U.S. Agency for International Development
USDA	U.S. Department of Agriculture
USDOT	U.S. Department of Transport
WCD	World Commission on Dams
WIPO	World Intellectual Property Organization
WTO	World Trade Organization

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COMPLEX SOVEREIGNTY

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1 Reconstituting Political Authority: Sovereignty, Effectiveness, and Legitimacy in a Transnational Order

LOUIS W. PAULY AND EDGAR GRANDE

How distant seems the year 1989, when historic and surprising events stirred many dreams of a new and more tranquil world order. The sudden end of the Cold War, as well as recent progress towards economic integration among countries in various regions, revolutionary advances in communications technologies, and the rapid emergence of myriad global social networks sparked a revival of idealistic thought. Europe was moving unexpectedly quickly from enlarging its common market to deepening monetary integration among the member-states of the European Union. These developments gave tangible expression to underlying processes that were widely deemed to have vast transformative potential. Scholarly debates focused less on whether such processes existed than on the desirability and durability of particular outcomes.[1] In such a context, the stubborn insistence of nativist Americans, embattled Israelis, and newly assertive developing countries on upholding the sanctity of state sovereignty – and the political independence of the nation – somehow appeared anachronistic. It seemed certain that, eventually, they would get over it.

Then Osama bin Laden's followers destroyed the World Trade Center and a section of the Pentagon. The ensuing war against Afghanistan's Taliban government, followed in 2003 by the invasion of Iraq, seemed to be evidence that the classical sovereign state was back. The United States mobilized against Iraqi President Saddam Hussein, while some of its key allies pointedly withheld their support. Such actions seemed to constitute further evidence that the security state, whose origins lie in the world of seventeenth-century Europe, had reemerged from out of the dusky shadows. Nevertheless some observers called for deeper reflection. Could it be that al-Qaida's very success

was a portent, in a world of asymmetrical threats and capabilities, where as an institution sovereign statehood was ill-adapted to respond effectively to citizens' fundamental demands for protection? Could it be that the monstrous postwar challenges of remaking failed states like Afghanistan and Iraq were demonstrations of the impossibility of actually solving pressing global problems in the absence of some new kinds of instruments for coordinating political activities across traditional territorial and functional borders? Moreover, could it be that the nature of other dramatic challenges to the prosperity and very survival of human life on earth – from viral pandemics to deterioration of the environment – pointed in a direction away from the historical doctrine of state sovereignty?

The tension between the reassertion of political authority by sovereign states and the emergence of dilemmas that cannot be resolved by radically decentralized decision-making structures forms the backdrop for this book. This collaborative study crosses the disciplines of political science, international relations, sociology, and political economy. The contributors have joined together in a systematic effort to understand and assess the character and likely future trajectory of political authority as it is being reconstituted at the global level. Together, they argue that we are living in a world where the levers of political control are no longer entirely clear. Nevertheless, they also contend that we are not, at least not yet, living in a situation that can be adequately described by the word 'chaos.' Instead, they describe a fascinating and vitally important struggle to give coherence to a complicated system of multiple and overlapping hierarchies. The idea that is currently at the core of that struggle to construct global political authority we call *complex sovereignty.*

Background

After years of intense scholarly debate, there is now widespread consensus that, despite increasing economic, social, and political pressures, the modern nation-state is not yet headed for the dustbin of history. This form of polity has not mutated into some kind of 'virtual' condition.[2] In most parts of the world, states seem to be more important than ever for the production of public goods such as security and welfare. Where states have failed, it seems quite clear that it is certain specific structures of the state that have failed, rather than the idea of the state itself.[3]

Nevertheless, there is now also a reasonably robust consensus that such conclusions should not be extrapolated to the point of arguing that the long historical evolution of the core structures of political authority in the form of the territorial state has reached its end. In fact, we can observe a *complex and partly contradictory transformation* of authority, until now centred in the state. This transformation affects the basic institutions, principles, norms, and procedures of contemporary policymaking.

We contend that this transformation is a *multi-dimensional and multi-scalar process*. It affects all aspects of public authority, in particular the distribution of political decision-making power across territorial levels, the relation between public and private actors, and the definition of public functions. The contributors to this book, in dialogue with one another across their various chapters, observe a redistribution of responsibilities for the production of common goods among public and private actors, the emergence of new forms of private interest government (i.e., the private production of public goods), and new modes of cooperation between public and private actors (e.g., policy networks and public-private partnerships). They do depict a world where new institutional forms of public policy-making at various geographical and functional levels (sometimes integrating different levels) are emerging. They assess multi–level systems of governance, international regimes, policy networks, and transnational policy spaces within which unique types of governing arrangements are evolving.

These new forms of governance have not replaced the modern nation-state, and there are good reasons to assert that they will not do so unambiguously in the near future. In most of them, national governments still play an important, even indispensable, role. But nation-states, as David Held and his colleagues put it in a well-known formulation, 'have gradually become enmeshed in and functionally part of a larger pattern of global transformations and flows.'[4] In an increasing number of domains, they can no longer simply dictate the rules of the game.

With the rise to international leadership of states that rest on democratic principles, legitimate political authorities have found themselves drawn increasingly to non-hierarchical and non-majoritarian modes of conflict resolution. Except during war-time emergencies, states have more often than in past centuries resorted to soft policy instruments to achieve their goals. In short, nation-states negotiate with one another as well as with an expanding array of other actors, as they seek collec-

tively binding decisions and new kinds of public goods. Our working hypothesis in this book is that such developments suggest a fundamental transformation in the organization of political authority in modern societies. Across much of the world, and certainly among the most powerful societies, state sovereignty is not obsolete; it is, however, being reconstituted.

Political Authority, States, and Sovereignty

Considerable conceptual confusion surrounds contemporary debate on the nature and implications of new forms of governance and their institutionalization. In the wake of intensifying arguments about globalization, de-territorialization, and the possible end of the nation-state, John Ruggie made the astute observation 'that [international relations scholars] are not very good ... at studying the possibility of fundamental discontinuity in the international system; that is, at addressing the question of whether the modern system of states may be yielding in some instances to postmodern forms of configuring political space. We lack even an adequate vocabulary; and what we cannot describe, we cannot explain.'[5] Although substantial efforts have been made in recent years to produce some conceptual clarity, a common understanding about the form, extent, scope, and consequences of the ongoing changes in political authority remains to be achieved.[6] Consequently, we can find a variety of different hypotheses and arguments both on the foundations, development, and future of modern states and on the role of sovereignty in this regard. Our starting point in this book is a distinction between three basic concepts: political authority, statehood, and sovereignty. Each of these concepts needs to be viewed in its proper historical context.

We are not witnessing the end of sovereignty with the advent of some postmodern kind of political authority. That said, it is not plausible to maintain that sovereignty has remained what it once was. We are living through a time when changes are occurring in both the internal and external dimensions of state sovereignty, as it has classically been understood. These changes, we argue in this book, have contributed to a significant *deepening in the complexity of sovereignty*. In the following chapters, these complexities will be explored in detail.

The modern state is a historically specific expression of political authority, with sovereignty as one of its defining characteristics. A key question being asked across many fields today is whether the

'modern' period itself has come to an end. As compared with statehood and sovereignty, *political authority* (politische Herrschaft) is defined most broadly. Max Weber famously asserted that political authority is 'the probability that a command with a given specific content will be obeyed by a group of persons.'[7] He took probability to be a measure of legitimacy: the double-sided belief that the giver of such a command is entitled to do so *and* that the subjects of such a command have an obligation to obey.[8] Empires, leagues, tribes, and kinship groups all embodied such expectations in the premodern period. In modernity, however, the key locus of political authority became the state.[9]

In historical terms, states are a recent innovation in governance. They originated in discrete European monarchies, and in a distinct process of state building and adaptation that stretched from tenth-century Europe to an eighteenth-century world remoulded by the extension of European state power.[10] Today, Europe is still at the centre of discussions about the state, but it is also the centre of discussions about the human potential for superseding traditional forms of state. In his remarkable history of the state in Europe, one that captures much contemporary thinking on this subject, Wolfgang Reinhard even goes so far as to argue that the modern state no longer exists there, but became extinct by the last third of the twentieth century.[11] We take a different view in this book.

What is the modern state and what are its basic features? Again, Max Weber's work provides a useful starting point. According to his widely adopted definition, the modern *state* can best be characterized by its 'monopoly of the legitimate use of physical force within a given territory.'[12] The most important, although often neglected, aspect of this definition is its claim regarding the state's coercive monopoly. Modern states were thus distinct from premodern forms of authority because of their ability to concentrate, institutionalize, and regulate the use of coercive force in a way not found in premodern societies. In brief, modern states restricted and civilized the use of coercion in society. This process of 'civilizing' coercive force can be delineated through four principles, which are – explicitly or implicitly – essential parts of Weber's conception:

1 *The principle of sovereignty*. Sovereignty is implied by the 'monopoly' of legitimate coercion. Sovereignty concentrates legitimate coercive

powers within a society in the hands of public authorities, thereby excluding individuals, groups, and organizations from actively participating in legitimate means of exercising coercion.

2   *The principle of territoriality.* Territoriality circumscribes the exercise of authority within the territorial boundaries of the state. The coercive power of the state, thus, does not legitimately extend beyond its geographical borders, except in self-defence.

3   *The principle of rational legitimacy.* Rational legitimacy requires that political authority must necessarily (although not exclusively) be based on formal rules and a consistent, codified legal order, rather than on tradition or charisma;

4   *The principle of bureaucratic institutionalization.* Bureaucratic institutionalization guarantees that sovereign powers are exercised permanently, reliably, and uniformly within a given territory.

The modern state integrated these four principles in a distinctive way. This largely contributed to its competitive success and its stability. Furthermore, in the twentieth century, after the decline of colonial empires, the modern state became the only legitimate form of institutionalizing political authority. To be sure, other forms of governance persisted, but they were subordinated to the authority of the state. Moreover, the effectiveness and legitimacy of these other forms of political community depended on whether they were recognized by the state or by international organizations comprised of states.

If a fundamental transformation of the modern state is now taking place, we would expect these constitutive principles to be significantly affected. More precisely, the reconstitution of public authority should mean the erosion, transformation, and reconfiguration of the observable ways in which these basic principles of modern statehood are expressed.

Obviously, transformations of particular states can vary in scope and extent. First, such transformations can either be limited to one of these four principles or involve all of them at the same time. Second, we can think of at least two types of changes: (1) internal changes of basic principles of modern statehood or (2) their replacement by some other principle of political authority. Changes of the first type would suggest the transformation of recognizable forms of state and most likely would be of an incremental nature.[13] Changes of the latter type would indicate the transition to some postmodern configuration of political authority.[14]

Complexities of Sovereignty: Historical Perspective

Although there is widespread agreement that sovereignty remains an indispensable attribute of the modern state, and that it is absent in premodern forms of political authority, the exact relationship between the state and sovereignty is highly contested. Our preferred conceptualization takes sovereignty and the state to be two sides of the same coin. Sovereignty is what distinguishes the modern state from its premodern, feudal predecessor and also from emerging postmodern forms of political authority.[15] An alternative theory might suggest that sovereignty is associated with all forms of political organization – whether empires, feudal systems, polities of states, absolutist states, or modern states.[16] In such a typology, the distinguishing feature of the modern state would be its close association with the idea of a nation, a sentiment crystallized in political ideology since the eighteenth century. But this risks confusing a defining attribute with a legitimating ideology. More generally, recent analyses of the modern state, sovereignty, and governance have been susceptible to two shortcomings. They have tended either to conceptualize sovereignty in zero-sum terms (i.e., as fully present or entirely absent from a given political structure) or to treat modern states as fully evolved *entities* (where the state-sovereignty linkage is invariable and any evidence of change must be associated with state decline).[17]

These approaches ignore what must reasonably be seen as the historical ambiguities of sovereignty. As a consequence, they make it more difficult to observe and assess the very essence of the putative transformation of public authority in the contemporary world. To avoid such shortcomings, it is crucial to keep the concept of sovereignty in its proper evolutionary and comparative-historical context. The practices, expression, and even theoretical conceptualization of sovereignty have changed over time, and we argue in this book that they continue to change. By way of previewing the main analytical themes in the chapters below, we can observe several transformations of the concept of sovereignty both in scholarly writings and in its common usage.[18]

In 1576, Jean Bodin famously conceived of sovereignty as both *absolute* and *exclusive*.[19] In his view, the acceptance of any additional authority within the same territory would necessarily destroy the effectiveness of sovereignty. Such a conception, however, was unrealistic from the outset, since even in absolutist states there was typically a

division of labour in the making and execution of laws. Bodin tried to solve this problem by distinguishing between sovereignty-in-principle concentrated in the hands – or, more precisely, in the person – of the emperor, and government, and the actual division and organization of sovereignty-in-practice.

Bodin's rigid conceptualization has long been the subject of much critical debate and significant reformulation.[20] Most importantly, with the replacement of the absolutist state by the constitutional state, and later on, by the democratic state, sovereignty-in-practice has mutated over time. Indeed, discursive development and the empirical emergence of new forms of state have proceeded in a dialectical fashion. The English idea of parliamentary sovereignty,[21] Rousseau's concept of popular sovereignty (which shifts the locus of authority from the emperor to the people), and the Weberian concept of 'state sovereignty,' (which attributes sovereignty neither to an emperor nor to the people but to the state itself) all helped to construct the ideological foundations for discrete modern states.

Changes in the internal organization of political authority did not render the sovereignty of actual states more or less relevant or consequential. In many respects, as we discuss further below, these internal changes were necessary for states to retain as much scope as possible for the external dimension of sovereignty. Different forms of government turned out to be entirely compatible with the idea of sovereignty appropriately softened for the post-Bodin era. One might justifiably claim, moreover, that this softening became more and not less obvious around the time of the 1648 Peace of Westphalia, which has conventionally been viewed to be a decisive moment in the definition of state sovereignty. Considerable historical evidence supports the contrary view, however, that the harder version of state sovereignty that is associated in the popular mind with Westphalia really only emerged after the French revolution and with the strengthening of nationalist ideologies during the industrial revolution of the nineteenth century. Studies of the Holy Roman Empire and its legacy in Europe suggest soft and porous boundaries around sovereign authority even in Bodin's day, their hardening some two centuries ago, and a gradual reversion to earlier norms after the world wars of the twentieth century.[22] Recent path-breaking constructivist studies of state sovereignty in general have moved suggestively along similar lines.[23]

There is, of course, the risk that analysts can push such thinking to an extreme position. Sovereignty cannot simply exist in the eye of the

beholder, for the political dynamics of objective coercive capabilities and the mutual recognition of legitimate claims to rule have always been central to empirical processes of the building, decline, and transformation of the state. Precisely here is where the contribution of this book comes in. Collectively, we have not aspired to provide a detailed account of the history and evolution of sovereignty. The contemporary period of transformation is our focal point. Still, our collaborative research strongly suggests that state sovereignty has become both more abstract and more complex, since its inception.

Based on the assumption that modern states are in fact integrated within an encompassing system of states, we can develop a more refined concept of sovereignty that is based on the following four propositions:

1 Internal and external sovereignty must be distinguished. Internal sovereignty refers to the relationship between state and society (i.e., the state's autonomy from society), whereas external sovereignty refers to the state's external relations in the international system (i.e., the state's independence from other states). In both respects, sovereignty is not simply the product of coercive capacities, but the result of *mutual recognition*. It is important to differentiate these two sources of recognition: whereas internal sovereignty relies on domestic consensus, external sovereignty is premised on international recognition by other states. The criteria for recognition may vary considerably over time, and both dimensions of recognition do not necessarily coexist easily.[24] Many states have enjoyed international recognition without achieving domestic consensus (e.g., authoritarian regimes or failed states such as Somalia). There are also cases of political authorities that, despite having substantial domestic support, have not been recognized by other states (e.g., the early Communist government in Cuba and the Taliban regime in Afghanistan).

2 Sovereignty can be divided and transformed without losing its substance. On this ground, we can remain open to the possibility of an internal transformation of sovereignty, and the emergence of different institutional forms, both of which can be seen to be different stages in the development of modern states. Indeed, the idea that sovereignty can be divided and reconfigured is, arguably, one of the most important innovations in modern political philosophy. With respect to the state's internal sovereignty, the result has been that

new institutional arrangements for the horizontal and vertical division of political authority, such as the separation of constitutional powers and federalism, have come to be seen as legitimate expressions of sovereignty.

3 The two dimensions of sovereignty – internal and external – can develop separately from one another. This implies that there is no necessary correspondence between the different stages of their development.

4 Although internal and external sovereignty can have separate trajectories of development, the two dimensions nevertheless remain interdependent.

Because internal and external sovereignty can have separate, yet interdependent, trajectories of development, we can identify various empirical clusters in the historical development of sovereignty. These clusters include the following:

• The *absolutist state* (seventeenth and eighteenth century), characterized by the concentration and centralization of sovereign power and security functions
• The *constitutional state* (nineteenth century), characterized by the diffusion of sovereign power among governors, constitutions, and legal rules
• The *nation-state* (nineteenth century), characterized by the integration of domestic populations through ideas about common history, language, sociocultural beliefs, and doctrines concerning national security
• The *democratic state* (nineteenth and twentieth century), characterized by a shift in the locus of sovereignty from rulers to ruled – essentially, the emergence of popular sovereignty
• The *welfare state* (twentieth century), characterized by the extended functions of sovereign power, including much more broadly defined responsibility for the security of citizens.

Flowing out of these propositions, the central question of this book is whether recent transformations of public authority within some states have actually led us to a sixth form of modern statehood, which might bear labels such as the 'transnational cooperation state' or the 'networked state.' This new type of state might emerge, for example, from the interplay of tensions between, on the one hand, the insistence that

all those who are meaningfully affected by decisions be somehow incorporated directly or indirectly into complex processes of decision-making and, on the other hand, the historical legacy of territorially based constructions of political and cultural identities.[25]

A similar, albeit less complicated development can be observed with respect to the external sovereignty of states. Histories of external sovereignty typically begin in the seventeenth century.[26] Even if one takes a more evolutionary approach, by the nineteenth century the doctrine of external sovereignty came to have three distinct elements:

1 States were defined as the basic units of the international system. Although other public and private authorities existed, they lacked sovereignty.
2 All states were considered to be legally equal, regardless of the size of their territory or the magnitude of their military power.
3 State sovereignty was understood to mean freedom from external interference. This was best understood as a prohibition on interference by one state in the internal affairs of another state.

Even from its inception, however, sovereignty has always been contested and challenged, in theory as well as in practice. The most significant transformation of any rigid conception of external sovereignty has been occurring since the Second World War, especially as can be seen in the emergence of a transnational human rights regime, whereby aspirations for individual rights have gradually been superseding the legitimacy of target states and their insistence on non-interference.[27] A similar dynamic appears incipient in the development and broadening acceptance of a 'responsibility to protect' vulnerable human beings, notwithstanding the resistance of local governmental authorities.[28] It requires little imagination to interpret such trends as part of a shift to *transnational sovereignty*. This type of sovereignty would differ from its doctrinal predecessor in at least two respects: First, it would in principle weaken the role of traditional states in international relations, and second, it would qualify, at times even suspend, the immunity of states from external influence. Accepting the notion that the earlier doctrine always masked actual hierarchies of power in the world, such a shift would also imply deeper potentialities in terms of global reordering.[29] Among scholars of international relations, the observation and analysis of such developments is central to key debates within the field.

For our present purposes, tracing the historical differentiation of sovereignty allows us to distinguish the main argument of this book from two competing hypotheses. The first, following Stephen Krasner, maintains that the model of sovereignty that is conventionally associated with Westphalia has been irrelevant for a long time and that it has long been nothing more than a system of 'organized hypocrisy.'[30] The second contends that current transformations of public authority are not unprecedented and thus not unique. We take a different view. The central thesis shared by the authors in this volume is that sovereignty exists and remains a relevant attribute of states and that recent changes in both the conceptualization and practice of sovereignty are unique and significant, even if their effects are variable. Earlier transformations in political authority can teach us all there is to know, but they can only provide rough analogies for explaining the present.

Read together, the chapters in this book make the case that contemporary transformations of the internal and external dimensions of the sovereignty of the state are constructing a new historical cluster of sovereign power. Ulrich Beck has proposed one formulation of this thesis; he calls this new cluster of sovereign power the *cooperation state*, a necessarily transnational polity that is based on a high degree of coordination, both internal and external.[31] At a time when the most powerful state in the international system appears to be reasserting hard-sovereignty aspirations, and when states that are still emerging from colonialism are energetically upholding the strict doctrine of sovereignty in defending their newly won political autonomy, Beck's is a bold and controversial formulation indeed. The other contributors to this volume debate Beck's specific formulation, and the debate remains as open as it is important. Furthermore, they do agree that the theoretical innovations and empirical evidence that they have surveyed strongly suggest a tendency in Beck's direction. As comparativists with a strong interest in international relations, the analyses by these authors highlight mounting pressures on the United States of America and other countries with apparently strong rhetorical attachments to unequivocal understandings of sovereignty, particularly to its external dimension. Collectively, they also outline key conceptual and empirical aspects of the political transformation that is purported to be unfolding in the contemporary world, a transformation suggestive of the potential emergence of new hierarchies of power and authority.

Transformations of Sovereignty: Dimensions of Change in the Actual Structures of Governance

The transformation of sovereignty is only one dimension of the change in political authority. We provide below a brief outline of the key dimensions of change in the reconstitution of public authority and, by extension, sovereignty. What is proffered here is a framework that goes beyond the usual internal-external understanding of sovereignty.

To reduce current processes of transformation to problems of internal sovereignty is highly misleading. It is true that problems of national sovereignty exist, and they are important. But such problems are only one aspect of a series of complex and ambiguous developments. Most importantly, the reconstitution of political authority in its fullest sense should be seen not only as a historical process, but also as a multi-dimensional phenomenon that comprises territorial, functional, and political aspects of the contemporary experience of governance. This reconstitution can be outlined in three steps:

1 Most importantly, the nation-state has lost its monopoly on collectively binding decision-making and on the production of public goods. In recent decades, we have witnessed the strengthening of international organizations; the establishment of new, regional levels of political decision-making; the emergence of new forms of governance and new types of interaction and cooperation between public and private actors; and the emergence of new roles for private actors in the production of public goods. Territoriality still matters, but the evident result of this intensifying interaction has been a substantial *spatial reconfiguration of public authority*.[32]

2 There is a continuous reassessment and redefinition of public functions. As a consequence of privatization, liberalization, deregulation, and re-regulation, the scope of the public sector has been changing, and the measures and instruments used to perform public functions have been adapting. At the same time, political dynamics have created new public functions for ameliorating environmental deterioration on a global scale and have both expanded and reinforced state security functions to protect citizens from global terrorism. This has resulted in a complex *functional reconstitution of public authority*.

3 Governance in industrially advanced societies has been confronted with new and unique *problems of democratic legitimacy*. This is partly because most of the new forms of governance with which they are

experimenting have serious shortcomings, particularly where par-
ticipation, representation, and control are concerned.[33] These prob-
lems have been exacerbated by the process of globalization, which
has created new political cleavages and intensified political con-
flicts. At the same time, new electronic media (e.g., global televi-
sion networks and the Internet) have been changing profoundly not
only the scope and intensity, but also the logics of political commu-
nication.

In sum, the idea of reconstituting public authority implicates the insti-
tutional form of state sovereignty, and its scope and content as well.

Although the hypothetical transformation of state sovereignty
through such processes in the contemporary period would be vitally
important, it can easily be rendered difficult to prove. Associated
debates are excessively abstract. Only with the advantage of historical
hindsight can such a transformation be assessed clearly. Like the steps
leading to the emergence of the absolutist state and the democratic
state, the policy decisions that brought about the welfare state seemed
modest and incremental to those who lived through making and intro-
ducing them. But such an insight provides a clue for investigators try-
ing to pierce through the fog of our own time. The contributors to this
book are joined together in the conviction that systematic and compar-
ative observation of contemporary changes in actual practices of gov-
ernance can provide insight into the deeper transformation of state
sovereignty. With one exception, these authors are based neither
within the United States nor the United Kingdom, two states at the
forefront of earlier transformations of state sovereignty. Marked by an
obvious reluctance to question the doctrinal outcomes of those strug-
gles, doctrines now embedded in constitutional forms and foreign pol-
icy traditions, it can be argued that policymakers and citizens in those
particular two states are having the greatest difficulty in perceiving
and adjusting to the ambiguities of transnational structures of author-
ity. We believe that sensibilities shaped by experiences with the chal-
lenges of governance in both contemporary Canada and Germany
contribute unique perspectives on the transformation of state sover-
eignty. The novelty of our collective project also is informed by our
examination of these kinds of challenges across a range of public, pri-
vate, and hybrid public-private regimes at the international, regional,
and national levels of governance.

The selection of cases examined in this volume constitute a compre-

hensive heuristic device for defining and probing the research frontier on state sovereignty. As will be seen, each of the examples reveals:

1 The increasing importance of regional and international levels of governance
2 An apparently increased significance and influence of private actors, both domestically and in the larger global system, with respect to the production of public goods
3 Increasing reliance on non-hierarchical and non-majoritarian methods of political conflict resolution at all levels – national, regional, and international.

This book is a contribution to the now rapidly deepening research on such matters. Do not assume, however, that every question on the research agenda is close to being answered definitively. The authors represented herein share the view that empirically based research can be a help in pushing away from polemics and towards understanding. Nevertheless, as some now commonly contend, while the world may be moving in the direction of 'cosmopolitanism,' 'globalism,' or 'empire,' systematic empirical assessment is essential to see the actual pathway.[34]

The Analytical Agenda

At the outset of this comparative exploration of the putative reconstitution of public authority, we freely admit that the very fact of the emergence of new forms of governance does not necessarily mean that they will become the dominant or exclusive forms in the twenty-first century. Nor does their emergence imply that they will be stable, effective, and ultimately legitimate. In truth diverging trends in approaches to governance are readily observable in the early years of this new century. This becomes perhaps especially apparent when public rhetoric surrounding doctrines of state sovereignty is contrasted and compared among various states around the world, including the United States, Russia, China, many developing countries, continental Europe, and Canada. Only in the latter cases are we now frequently hearing about the sharing or pooling of sovereignty. To be sure, such talk provokes reactions, even in those states. But on a range of issues traditionally viewed as being central to the autonomy and integrity of state authority – from deep economic and social

reforms to military security – public rhetoric in Europe and Canada, for example, concerning the malleability of sovereignty appears to be matched by a historically unusual openness to *transnational coopera-tion*, a phenomenon now also apparently crossing formerly distinct boundaries between the 'public' sphere and the 'private.' It is worth putting the phenomenon of transnational cooperation under scrutiny and probing the reasons for differences in approaches to it around the world.

To arrive at such distinctions, the contributors to this volume exam-ine the ability and the willingness of private actors, interest groups, and transnational social movements to cooperate, but they focus more of their attention on the ability and willingness of states to cooperate. In the concluding chapter, we group states into one of four different categories: (1) those both able and willing to cooperate; (2) those able but unwilling to cooperate; (3) those unable to cooperate, although they would be willing to do so; and (4) those both unable and unwill-ing to cooperate.

Four issues guide the research presented in this book:

1 The institutionalization and the overall *institutional architecture* of new transnational forms of governance, in particular the relations between various differentially empowered organizations that pro-vide public goods
2 The *role of states* in these new transnational forms of governance, their ability and their willingness to cooperate in transnational arrangements of policymaking, their willingness to comply with transnational rules and norms, and their ability to implement such rules and norms
3 The organizational problems of *private actors* and their possible con-tribution to transnational governance
4 The *legitimacy* of new forms of governance, specifically the obstacles to democratic participation in transnational forums of decision-making.

The authors of this book explore these issues. In dialogue with one another, each provides insight and suggestions for addressing the com-plex dynamics of reconstituting political authority. Together, they con-clude that such an outcome is very demanding, highly contingent, and enmeshed in conflictual processes. In short, their minds remain open to the possibility that significant contemporary challenges to gover-

nance may be charting the road to new structures of sovereignty in a more complicated world. Mindful of past reversals in human progress, however, they also remain wary of predicting any such ultimate implications. It is accomplishment enough to identify and highlight new tendencies relevant to such reversals, as well as perhaps, new and hopeful legacies that raise the bar for future retrogression.

This book is organized as follows. The first three chapters provide overviews and applications of three promising approaches to the issues of reconstituting sovereignty, as addressed above. Ulrich Beck develops his theory of world risk society and applies it to some of the challenges that are confronting Europe and the United States today. Mathias Albert extends modern systems theory, as developed by Niklas Luhmann, to the analysis of international relations, and Guy Peters summarizes and provides examples of key concepts in modern organization theory as found in actual contexts of governance.

Specific examples of territorial and institutional adaptation in governance practices are examined in the chapters by William Coleman, Louis Pauly, Burkard Eberlein and Edgar Grande, and Stephen Clarkson (with his collaborators). These chapters are followed by two that explore the dynamic processes of governance innovation that are currently blurring the distinction between public and private authority. Tanja Börzel and Thomas Risse examine public-private partnerships at the international level, and Tony Porter offers a complementary analysis of norm generation by actors in the private sector.

Underlying all of these contributions is a concern about the legitimacy of governance beyond the nation-state. Grace Skogstad and Michael Greven both examine critical interventions that highlight the challenges and potential solutions to securing legitimacy in new and emerging structures of governance. The concluding chapter returns us to a consideration of the meaning and implications of the reconstitution of political authority early in the twenty-first century.

NOTES

1 See, e.g., Greven and Pauly (2000), which inspired this volume.
2 Arguments suggesting the erosion of sovereignty and of the nation-state as traditionally conceived are presented by Albrow (1996), Camilleri and Falk (1992), Ohmae (1995), Strange (1996), Rosecrance (1999), and Reinhard (2000), to mention only a few prominent authors.

3 This holds least for industrially advanced societies. On the failure of the postcolonial state in Africa, see Herbst (2000).

4 Held et al. (1999). On this theme, also see Slaughter (2004).

5 Ruggie (1993: 143f).

6 See, e.g., the concepts of sovereignty presented by Krasner (1999), Hall (1999), Philpott (1999) and Biersteker (2002). In this regard, we agree with Biersteker's view (p. 157): 'One of the most important analytical challenges for scholars of international relations is to identify different meanings of state, sovereignty and territory, and to understand their origins, comprehend their changes of meaning, analyze their interrelationships, and characterize their transformations.' Also see Biersteker and Weber (1996).

7 Weber (1978: 55).

8 'Legitimate authority,' according to Weber, is an authority which is obeyed, at least in part, 'because it is in some appreciable way regarded by the [subordinate] actor as in some way obligatory or exemplary for him' (Weber 1978: 31).

9 For more on premodern forms of political power and authority see Mann (1986). Spruyt (1994) provides a comprehensive discussion of alternatives to the nation-state.

10 Tilly (1990), Reinhard (2000: 15).

11 Reinhard (2000: 535).

12 Weber (1978: 78).

13 These are taken up in the chapters below that refer, e.g., to the theory of reflexive modernization (Beck, Giddens, and Lash, 1994; Beck 2002) or to the theories of post-Fordism (Jessop 1994).

14 Much recent work on notions of private authority tends in this direction. See, e.g., Cutler (2003), Hall and Biersteker (2002), and Cutler, Haufler, and Porter (1999). Also see Rosenau (2003).

15 For authoritative summaries of this position see Hinsley (1966) and Quaritsch (1970).

16 Held (1995).

17 In Krasner's (1999) work, we can find the most obvious strategies to reconcile a static concept of sovereignty with the ongoing transformations of political authority. Either the significance of the changes can be denied or the significance of the concept itself can be refuted. Krasner is an advocate of the latter position.

18 See Quaritsch (1970), Bartelson (1995).

19 This is what Keohane (2001: 6) has labelled 'unitary sovereignty.' See Bodin (1992).

20 See Hardt and Negri (2000: part 2).

21 To put it more precisely: of the 'king in parliament.'
22 Such an argument is well made by Osiander (2001).
23 Bartelson (1995). See also, Onuf (1989), Kratochwil (1989), Wendt (1999), Reus-Smit (1999), Hall (1999), Hurd (1999), Keene (2002).
24 Biersteker (2002).
25 Some authors argue that there has also been a reduction in state functions in the wake of a transition from the welfare state to a 'neo-liberal state' or to a 'workfare state' (Biersteker 2002; Jessop 1994). We see the transformation of political authority as less straightforward. Its result has been the functional reconfiguration of public authority rather than its reduction and a blurring of traditional territorial claims. On the reconceptualization of the latter, see Ruggie (1993) and Appadurai (1996).
26 Philpott (2001) presents a sophisticated analysis.
27 For a more detailed discussion see Held (1995) and Lyons and Mastanduno (1995).
28 Evans and Sahnoun (2002), Finnemore (2003).
29 Lake (2003) provides an excellent review of relevant literature. Also see Lake (1999).
30 Krasner (1999).
31 Beck (2002).
32 On territoriality, and specifically on the distinct matter of not changing boundaries by force, see Zacher (2001).
33 See, among others noted below, Greven and Pauly (2000), and Zürn (2000b).
34 Hardt and Negri's (2000) formulation has been highly suggestive, but it also demonstrates the difficulties of assessing dimensions of actual change.

2 World Risk Society and the Changing Foundations of Transnational Politics

ULRICH BECK

The prevailing attitude among intellectuals today involves a kind of flight from a world situation so contorted that familiar instruments of theory, traditional expectations of the future, and classical means of politics cease to operate.[1] I have tried to address this situation with a research program on a *second modernity*, or *reflexive modernization*, that requires not only new concepts but also a different social-scientific grammar in order to grasp and explain an explosive dynamic in a world that no longer corresponds to the image of actively self-reproducing its structures and system.[2] The theory of *world risk society*, developed in my earlier work, helps in examining how such a dynamic is changing transatlantic relations.[3] On the basis of this theory, my objective in this chapter is to put forward a number of hypotheses that are relevant to the overarching theme of reconstituting sovereignty and of this book as a whole. First, the chapter provides a theoretical orientation. Then it considers the contradictory perceptions of risk that prevail in the United States and in Europe and the extent to which these differing perceptions accounts for the contemporary drift between the two regimes. The chapter then outlines the distinctive logics of ecological, economic, and terrorist risks and the significance of world risk society for generating cooperative strategies of risk reduction in Europe and the United States. Finally, the chapter attempts to draw some theoretical and policy conclusions under the paradigmatic term, *cosmopolitan realism*.

World Risk Society: Outline of a Theory

Let us consider twelve theorems that distinguish new risks from old risks and suggest why the dynamic of conflict within world risk soci-

ety should be seen in terms of a second, reflexive phase of radical modernization.

Theorem 1: Global Risks as a Social Construction

New risks are perceived to be transnational or global risks. Even when disaster strikes a particular place and produces a grim yet limited toll of dead and wounded, the risk is perceived as unlimited; in the end, it could affect anyone. In this sense, global risks should be differentiated from 'problems that know no frontiers' (e.g., illiteracy, poverty, and so on), because they universalize the likelihood of destructive effects.

We must clearly distinguish between the physical event of a disaster (or an ongoing process of destruction) and the *unlimited expectation* of such disasters to be a global risk. Whether a destructive event counts as a global risk depends not only on the number of dead and wounded or the scale of the devastation of nature, it is also the expression of how the event comes to be perceived. Environmental issues, for example, were once considered by some observers to be a German fad, but since the 1992 U.N. conference in Rio de Janeiro, few still seriously hold such a view. Now, those who deny the reality and urgency of environmental issues must justify themselves. The entire process of social recognition can be quite protracted, but it can also be sudden and dramatic. The terrorism risk, for example, acquired global recognition in one fell swoop, under the impact of the horrible television images of 11 September 2001, even though the urgency of the risk and its priority in the list of global problems remain hotly debated.

Theorem 2: Global Risk as Reflexive Globality

Global risks are an expression of global interdependence and render the latter more intense.[4] Unlike, say, global production chains, which may remain latent, global risks break into human consciousness by virtue of their physical and political explosiveness. One of their peculiar characteristics is the combination of actual interdependence with an awareness of that condition, which I call *reflexive globality*, meaning that, at least under certain circumstances, global risks generate a public. They attract the attention, and economic interests, of the mass media; they threaten everyone, converting the entire world into prisoners and voyeurs of disasters.

Theorem 3: Wars without War

Global risks have a destructive potential comparable to, or perhaps greater than, actual wars. With respect to environmental risks, for example, we effectively confront wars without war. These risks stem from the side-effects of modernization, which may not always be readily attributable to the state. Daase puts it like this:

> The paradigmatic security threat has not become obsolete since the end of the Cold War: there are still states which compete for territory and resources and pose a military threat to one another. But the dangers that have been more sharply perceived since the end of the East-West conflict are of quite a different kind, often lacking a clearly identifiable player, a hostile intent or a military potential. The danger is not direct, intentional and definite, but indirect, unintentional or indefinite. In short, it is a question not of threats but of risks ... What distinguishes security risks from security threats is the loss of certainty about the future when at least one element of the classical security calculation – player, intent or potential – becomes an unknown quantity. As a result, the security triangle gives way to a multiplicity of risk factors, and the number of potential dangers is increased.[5]

Theorem 4: Manufactured Uncertainty

In the first modernity, the international system was in principle predictable, because states held one another in check. In the second modernity, the international system is inherently *unpredictable*. We do not actually know whether and when a suicide bomber will destroy a railway station or fly an aircraft into a nuclear reactor which could trigger a full-scale disaster. We do not know when climate change will produce floods here and droughts there. We lack the help of probability calculations for such *unknown unknowns*.[6] The international system in the second modernity is beset with transnational dangers: 'International politics is primarily distinguished not by threats – and hence by the intention and capacity of various players to inflict significant damage on one another – but to an increasing extent by risks.'[7] Uncertainty manufactured in and through civilization does not remove, however, but actually increases the necessity of making decisions.[8]