

From the Powerless Puppet of the Church to the Impuissant Pussy of Globalisation: Tracing the Portentous Path of The Institution of State

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ABSTRACT

This article is divided into three sections. The first section ponders on the rival theories of the State where four theories- pluralist, elitist, leviathan, and patriarchal are explained. The second section deals with the evolution of the Nation-State, trying to explain the evolution of the State in Europe due to frequent wars, rising trade and commercial activities, and the rise of individualism and protestant movements. Further, the evolution of the Nation-State is traced from the American and French revolutions, followed by the rise of German Nationalism, the World Wars, the transition from war-State to a welfare State and from that the Neoliberal State in the era of globalisation. Finally, the last section deals with the effects of political and economic globalisation on the State. Here, the role of international institutions, international law and economic integration is assessed.

KEYWORDS – Globalisation, nation, nation-state, state, war.

1. INTRODUCTION

For Hegel, State was one of the three pillars of social existence- a *parens patriae*- superior moral guardian, formed by an ethical community based on universal altruism, lighting the right path for its citizens. However, for Marx, State was an apparatus to maintain social order by taming class conflict- ensuring the survival of the capitalist system. Nevertheless, for Weber, it was a “compulsory” organisation with exclusive territorial jurisdiction, with an administrative staff claiming a “monopoly of the legitimate use of physical force” (Weber, 1978) [1]. And the list of scholars goes on with their own views of the State. In other words, State is an essentially contested concept. Regardless of the views of a school of scholars, one thing is obvious- the State, from a super guardian based on personalised rule and ad hoc justifications of authority, usually by invoking divine precedents and the God’s will, has transformed itself into a depersonalised one based on the rule of law.

2. THE CONCEPT OF STATE: RIVAL THEORIES

Being an essentially contested topic, understanding the State and its multiple dimensions requires a comprehensive analysis of its rival theories. In this section, I’ll focus on four of them- pluralist, elitist, leviathan, and patriarchal.

The pluralist theory of the State, modelled on the social contract theories of Hobbes and Locke¹, considers State as an abstract concept, with its apparatus ancillary to the elected government. For them, the institutions of the State are independent actors- non-elected bodies subordinated to the political masters by virtue of political (hence, public) accountability. The State is, therefore, a neutral referee that mediates between competing groups and interests, and safeguards individuals from encroachment. For them, the State is neutral and separate from the society, leading to the belief that it has no agenda of its own, other than the interest of the society as a whole. Nevertheless, neo pluralist theorists like Dahl, Lindblom, and Galbraith question the neutrality of the State. In the era of complex interdependence and globalisation, MNCs and TNCs are major investors and employers in a State. Some of the TNCs even have profits greater than the GDP of some States². In such cases, regardless of the ideology of the ruling party, they exert influence on the government. Moreover, in countries like India,

¹ In the “state of nature” defined by chaos and angst, the individuals enter into a contract either to avoid a war-like situation (Hobbes) or in pursuit of a *lee* where their natural rights- right to life, liberty and property- are protected (Locke). While Hobbes favoured an absolutist State, Locke believed that the omnipotent powers vested in the State itself are a threat to individual liberty, and, therefore, must be limited by constitutionalism and representative democracy.

² For instance, in 2017, Amazon’s revenue exceeded that of Kuwait, Apple’s exceeded Portugal’s and Volkswagen’s exceeded Chile’s.

bureaucracy has become a class in itself with its own interests. Such sectional interests within the State make it nothing less than an interest group.

The Capitalist theory of State, modelled on the writings of Marx, considers State as the manifestation of class antagonism. For Lenin, State was an instrument for the “oppression of the exploited class”. As in the case of everything related to the Marxist theory, the State is no exemption from the principle of economic determinism. The State, by virtue of being part of the superstructure, is conditioned by the economic base. In the Communist Manifesto, Marx writes that the State is the secretariat of the Bourgeoisie, heavily dependent on the interests of the dominant class. However, in his “The 18th Brumaire of Louis Bonaparte”, Marx, though failed to examine it in great detail, commented on the concept of “relative autonomy”³. Nevertheless, Marx was not an outright critic of the State⁴. After a successful transition to communism, the class antagonism ends, and the State will have no reason to exist- the State will “wither away”. The role of the State in the Marxist paradigm is further expanded by the Miliband-Poulantzas debate⁵. Nevertheless, for Neo-Marxists, the two-class model is a gross oversimplification of reality. The State is an arena of conflicting interests, especially in the view of Bob Jessop, where interest groups struggle for hegemony. The State, therefore, represents the balance of power and the outcome of the ongoing battle for hegemony.

The Leviathan State or the self-serving giant sea monster is based on the concept of radical individualism. They believe that the growth of the State will jeopardise individual freedom and economic security. With a strong hatred towards State intervention, and believing in the principles of *laissez-faire* and *carte blanche*, they argue that State is not a neutral arbiter, but a desperate Leviathan looking for ways to gulp down individual freedom. The interests of the State are separate from those of the society and these interests drive the State to expansion. For them, social welfare and ideas of welfarism are just a mask to cover the expansionist agenda of the State. While acknowledging demand-side pressures through electoral competitions and political participation, they point towards the existence of a supply-side pressure- pressure from the State itself. This is corroborated by the existence of street-level bureaucracy in Prismatic societies, as studied by Fred Riggs. In other words, the bureaucrats, appealing to the malfeasance and misfeasance of law, try to further their (as well as the State’s) interests.

Finally, the Patriarchal State, modelled based on feminist thought, compares the State to a patriarch. The monopoly over legitimate violence is comparable with the patriarch in the home, claiming a similar monopoly over the members of the household. For liberal feminists, the State is biased in the favour of men, whereas women had to struggle for equal political rights, legal equality, and even the right to vote. However, they believe in reforms and laud the positive role of the State in promoting gender justice. On the other hand, radical feminists believe that the State is just a part of the larger reality of patriarchy. The state is made by men, run by men, and works for men. For them, the State is the ultimate manifestation of the larger social reality, characterised by patriarchy. For the instrumentalists, the State is just a puppet in the hands of men to further their interests, especially by keeping the “private” out of the “public”. For structuralists, on the other hand, the State is embedded in a larger system of patriarchy, where the State has to work in favour of men⁶.

3. THE ERA OF PUPPETRY

Regardless of these rival theories and Byzantine explanations, one thing is clear- today, the State is a part of our everyday life. From the laws of the household- domestic violence, right to education, laws on marriage and divorce- to the taxes I pay even for a bar of chocolate- the State is everywhere. But from where did it come from? It is not that one fine day, everything happened with the wave of a magic wand. Neither it is an act of God, who just took seven days to construct the world. It is, instead, a process of continuous evolution and improvement with time. Being a product of European export, which was “transplanted globally” (Giddens,

³ Indeed, the State articulates the interests of the dominant class, but mediates between the conflicting classes and maintains the class system. In France, for example, the State furthered the interests, not of the Bourgeoisie, but the smallholding peasantry, the dominant class.

⁴ For him, it (will) serve an important purpose- help maintain the interim period of “socialism” while metamorphosing from Capitalism to Communism. For some Marxists, it will also prevent the possibility of a counter-revolution.

⁵ For Miliband, the overlap of the social background of the State apparatus and the Bourgeoisie, where both represent the capitalist class, is the reason behind the furthering of capitalist interests by the State. However, for Poulantzas, the State has no choice other than to further the interests of the dominant class in the system it operates. The State, in a capitalist society, will take measures to ensure the long-term survival of the system, even if some policies are against the interests of the capitalist class. For instance, legally enforcing the minimum wage is against the interests of the capitalists. However, it gives some concessions to the working class, thereby nipping the possibility of a revolution in the bud.

⁶ To illustrate, for them, welfare policies, especially in the domain of childcare, leads to a new form of subjugation- marking a shift from private dependence to public dependence. Moreover, the State polices reinforce the role of women as an extra pair of arms, forming a flexible, cost-efficient, and relatively submissive workforce.

1987; Strang, 1991) after the series of decolonisation events, the evolution shall be seen in the light of changes in medieval Europe [2] [3]. The history of the modern Nation-State, therefore, can be traced back to the medieval times when the States were guided by the superior force of the Church and the dangerous dependency on the feudal lords. A series of developments led to the creation of the modern Nation-States we see today. In this section, I'd explain the developments that led to the creation of the State- mainly wars, intense trade and commercial activities, the rise of individualism, enlightenment, and the reformation movement- followed by the shift from war-centric states to Nation-States, focusing briefly on the achievements of the American and the French revolutions. The last stage in the evolution process, finally, reaches the present-day modern State, now guided by a force beyond it- like the Church and the feudal lords of the medieval era- globalisation.

As mentioned elsewhere, the strings of the medieval state were in the hands of the Church and the feudal lords. The church, acting as a transnational authority, and the feud-based social relations, never allowed the rulers to exercise sovereignty. Things started changing with the changes in the quality and quantity of warfare (Bean, 1973; Tilly, 1976) [4] [5]. The military developments trumped mounted cavalry, and the need for humongous amounts of foot soldiers gave way to a well-paid, well-organised, well-disciplined standing army, eclipsing the feudal military service based on personal ties, often for a short period like forty days per year. Furthermore, the discovery of gunpowder and the introduction of siege artillery further revolutionised warfare (McNeill, 1982) [6]. These advancements were perfectly channelled and exhibited in the conquest of Constantinople (1453). These developments, furthermore, demanded greater taxation and mobilisation of (wo) men and resources. Administrative reforms were carried out with the establishment of central revenue systems, taxation and bureaucracy. The rulers began formal diplomatic relations and monarchies became centralised⁷. Also, Charles Tilly comments that the States capitalised on the insecurities caused by the war, as between 1500 and 1700, all European States were in the war or on a war footing with each other (Parker, 1979), by opening a "protection racket"⁸ (Tilly, 1985) [7] [8].

Neo-Marxists cite economic reasons for the decline of feudalism. According to them, the growth of trade led to the rise of the rudimentary capitalist class⁹ who lived by the profits appropriated from leasing their lands, trade, and value-added manufacturing. With the rise of the early capitalist class, the State emerged to arbitrate between the antagonistic classes (Marxist theory of the State). Therefore, the change in social relations and the emergence of the Bourgeoisie necessitated the emergence of the State. Furthermore, the rise in trade, often in the form of mercantilism, demanded military protection from the ravaging wars and dacoits for the smooth conduct of their businesses. More than feudal lords, they favoured the rulers for the reasons mentioned [footnote 8] under the protection racket.

With the wars and growth of trade stifling the balusters of feudal control over the State, the rise in individualism (McFarlane, 1978) and the reformation movement crippled the authority of the Church [9]. Feudalism was based on the order in the "heaven" (Duby, 1982)- requiring a three-level division of people- those who pray, those who fight, and those who work [10]. People now started looking for a secular order, emerging not from the religious mandate, but through a rational design, as voiced by the social contractarians (See, the Pluralist theory of the State). Protestant movements also challenged the political authority of the Pope and the concomitant corruption in the Church, which took a political dimension in the form of the thirty-years war. It ended with the signing of the historic Treaty of Westphalia (1648), giving rise to the modern State¹⁰. With the social contract theory of Hobbes, declaring the State as a product of a secular social contract gave rise to the theoretical framework of the modern State.

The early modern State was, however, nothing more than an apparatus made to mobilise resources to fight wars. By the later parts of the 18th century, the word "nation" was placed in front of the "State", thereby forming Nation-State. The Nation-State, as opposed to the State, was formed by "a community of people joined by a shared identity, history, culture, worldview, and social practices". In other words, the nation injected the soul into the jejune apparatus of the State. Now, the State apparatus is being used to further the ends of the nation.

⁷ For instance, Louis XIV of France was eulogised as the "Sun king", where everything revolved around him.

⁸ Here, rulers trumped the local lords by giving protection to the people and traders as they had more resources (taxation), efficient administration (bureaucracy), larger territory and greater military strength (technological advancements and well-trained standing army).

⁹ Since they were outside the traditional feudal system of production, they were free from the servile bonds. As it is said, the city air makes free.

¹⁰ The treaty placed secular authority above the religious one and gave rulers the right to regulate the public exercise of religion within their territories. It gave rise to the concept of State sovereignty, which can be limited "only by the consent of the State itself". Within the territorial jurisdictions of a State, it enjoys "exclusive and absolute" sovereignty.

The American revolution of 1776 followed by the French revolution of 1789 reflected nationalist sentiments and the desire to combine nation and State. The opening words of the American constitution, “we, the people of the United States”, based on the principles of Locke, is an impressive exemplar of the nationalist zeal. Furthermore, the French revolution outmanoeuvred the existing social order with a one based on the principles of liberty, equality, and fraternity. The Declaration of Rights of Man and Citizen further expanded the scope of the Nation-State, by completing the “theoretical underpinnings” of the modern Nation-State. As early as 1792, the French Nation-State started confronting the neighbouring kings. However, one thing was different now- unlike other States, the French government “relied on people to make contributions to the war”, by virtue of the concept of “patriotism”, emanating from the love and loyalty towards the Nation-State.

The Congress of Vienna (1815) attempted to restore the *status quo ante bellum*, however, the nationalists demanded themselves to be included in the political systems of their State. “The Finns wanted an independent Finland, the Bulgarians an independent Bulgaria, the Serbs an independent Serbia”. In 1861, a multitude of city-states became unified as a single Nation-State, Italy. Finally, the German ambitions of a Nation-State bore fruits in 1871, after it defeated France in a war¹¹.

Also, the World Wars saw a transformation of the Nation-States into a warfare state, based on taxation and mobilisation. The principles of “right to self-determination” (Woodrow Wilson) and the economic ramifications of the War saw a series of decolonisation events¹², incorporating over 90 independent States into the international system. Almost all erstwhile colonies face a common problem- the borders of the nation and the borders of the State are different. The artificial sense of Statehood imposed from above is creating more problems like civil war and ethnic tensions. Some African countries do not even have well-defined and regulated borders- the main feature of a State. Also, most of these countries have effective control only near the capital. They are also in confrontation with drug cartels, terrorist groups, dacoits, etc. Furthermore, most of them are dangerously dependent on one export material, especially oil.

After the War, the State became a welfare State, taking responsibility for the unemployed, sick, illiterate, and old. The tax-and-spend regime became highly inefficient and unaffordable, which was exacerbated after the oil shock of the '70s, making some feel that the States will go “bankrupt”. This era was followed by a wave of neoliberal policies of Reagan-Thatcher, modelled on privatisation, disinvestment, trimming welfare activities, and indirect distribution of resources through private agents. Also, military expenditure saw a significant decline post disintegration of the USSR.

4. THE IMPUISSANT PUSSY OF GLOBALISATION

The disintegration of the USSR, or the liberal moment in world history, led to the globalisation of globalisation itself. Though I'm not concerned with ‘what is globalisation’ in this article, I'll be focusing on how globalisation- economic and political- is affecting the modern States. Political globalisation can be seen as a catalyst for global governance. Emerging global issues like international terrorism, climate change, global warming, and pandemic, which know no borders, clubbed with the emergence of structures of international governance- intergovernmental organisations, multinational corporations, transnational corporations, global social movements, and even a global civil society- makes globalisation a structure- a structure of multi-player global governance. Furthermore, economic globalisation is the “integration of national economies into the international economy”, often through the internationalisation of “trade and production, financial markets, and a commodity culture” (Bhagawati, 2004) propagated by “the global telecommunication system” (Scholte, 2008) [11] [12]. Now, like the medieval States, the threads of the modern States are in the hands of a superior force- globalisation.

“*Modern States have been profoundly affected by the rise of economic and political globalisation*”. How? There are three views. Firstly, the hyperglobalists celebrate the triumph of the market over the State, with some like Ohmae, writing obituaries for the State. For Ohmae (1989, 1990), the borders of the State are becoming less

¹¹ The great German unification was concluded under the leadership of Bismarck. Nationalism is thought to be a main cause of the World War I, which ended with the punitive Treaty of Versailles, hurting the sentiments of the German people. Capitalising on this, Hitler rose to power and laid the foundations for the next World War after a “twenty-year truce”. After the division, the Berlin wall eventually fell in 1989, forming a German Nation-State.

¹² The first wave of decolonisation occurred in Latin America where 15 new States were formed after gaining independence from Portugal and Spain. The result was internal colonialisation by the exploitation of workers by the elites. The second wave saw the break-up of the multi-national Austro-Hungarian empire into different Nation-States due to the rise of nationalist sentiments. This was followed by the Russian revolution and Hitler's annexation campaigns. The third wave was followed by the World War II, after which the colonial powers went bankrupt to maintain the colonies. This wave added almost 90 new States into the international arena. Majority of the states which got independence in this period fell into the clutches of patrimony, civil wars, border disputes, ethnic tensions, and so on. The fourth wave happened due to the collapse of the USSR, forming 15 Nation-States.

significant [13] [14]. Also, mobile capital and lack of control over money, investment, and even their own currencies are diminishing the role of States. George Sorenson (2017) believes that globalisation is breaking the exclusive link between territory and power, often known as deterritorialization [15]. For Susan Strange, globalisation is characterised by the diffusion of authority into other institutions [16]. John Nesbitt claimed that the emergence of “new tribalism” will lead to the demise of the Nation-States [17]. Superseded by international organisations, global social movements, NGOs, and even a global civil society, the States are forced to tailor policies to the interests of a superior force.

Second, the Sceptics believe that internationalism (not globalisation) has not affected the traditional role of States. The national political practices are still active, and the States continue to rule (Held and McGrew, 2002) [18]. The boundaries are still relevant, with people dependent on passports, visas, and residence qualifications (Hirst, Thompson, and Bromley, 2015) [19]. Rather than creating new institutions, internationalism happens in the existing framework of the international State system¹³. Also, MNCs and TNCs are restricted by the policies of the State. Moreover, Kofman and Yongs (2008) suggest that though States cannot control the mobility of money, they effectively control the movement of people through strict immigration laws [20]. Citing Marxist/Neo-Marxist theories of Andre Gunder Frank and Immanuel Wallerstein, sceptics argue that what we know today as globalisation is just an international capitalist system, characterised by exploitation of the periphery by the core, leading to global inequality. In addition to that, they claim that the international institutions are just puppets in the hands of powerful States, trying to get themselves exempted and circumvent resolutions against their national interests, and support those in their favour, but against the interests of the developing and the least developed countries.

Finally, for transformationalists, the State has neither become extinct, as hyperglobalists put it nor are they able to retain its sovereignty as it used to be once. Transformationalists, therefore, believe that the States are reconstituting their powers based on international laws, human rights, environmental issues, MNCs, TNCs, NGOs, global civil society and social movements. States also share/pool sovereignty, like in the case of the EU. Also, States can control MNCs and TNCs in many ways. From environmental laws to corporate social responsibility and corporate tax to labour laws, corporates seldom escape the State power. For instance, consider the Indian government, which slammed Twitter for “trying to dictate terms to the world’s largest democracy”. Now, I’ll try to explain how the modern States are profoundly affected by economic and political globalisation by focusing on three factors- economic integration, global governance and the role of international organisations, and the new international law.

Globalisation is characterised by the cross-border movement of capital. It’s simple- money does not respect national boundaries. With new forms of money transfer through cryptocurrencies like Bitcoins, a decentralised network of currency trade, financial transactions are made across countries without the intervention of any central authority, including the central banks of various countries. Exchanges worth \$112 billion are done through cryptocurrencies every day. With the fall of national barriers to overseas economic activity, they are becoming vulnerable to market forces. Also, States are getting their domestic economic policies tailored to the changing global economic system. Take, for example, the Indian government is planning to launch its virtual currency. Though the budget 2022 explicitly did not comment on the recognition/ legalisation of financial transactions made through crypto, it introduced a 30% tax on such transactions, which can be seen as a first bold step towards acclimatisation of the Indian Nation-State to the global economic trends. Also, after facing a series of setbacks at international tribunals and arbitration panels, the Taxation Law (Amendment) Act of 2021 amended the Income Tax Act of 1961 and Finance Act of 2012 to do away with retrospective taxation. Neoliberal policies are imposed on the nation-states as part of the Washington consensus or Structural Adjustment Programme. The IMF requires the States to make adjustments in their monetary policies like raising taxes, reducing the deficit, lifting controls on capital flows, cutting spending, etc. Take, for example, Pakistan- recently, IMF questioned Pakistan on the \$1.5 billion subsidy package Mr Khan announced- what does it mean? Can I interpret it that the sovereign nation-states are answerable to supranational bodies for their financial decisions? Also, recently, the Sri Lankan government began to implement policies dictated by the IMF. In addition to that, the States issue bonds on the international capital markets, only to find their control over the domestic monetary policies losing day by day. For instance, after the 2008 economic crisis, countries like Greece, Ireland, Portugal, and Spain altered their economic policies due to the pressure from international capital markets.

¹³ The international economy is still made of the individual economies of nation-states, and therefore, giving it a global status will be unreasonable. The States retain authorities as the IOs, including the UN, is constituted and driven by the States, and, therefore, are not above it. Moreover, States remain prominent actors in both national and international arena, according to Robert Gulpin.

“Rationalised institutional processes”, through international organisations, are mediating the inter-state relations, rather than the “anarchy” of the Westphalian state system (Spiro, 2011) [21]. There was a time when a bilateral settlement or an armed conflict followed a border dispute. Now, one can find them in the tables of the ICJ. Various tribunals are set up to solve the conflict between nations, like the commission instituted by the Jay Treaty (1975) to settle “claims arising out of the Revolutionary War” (Ku and Yu, 2013) [22]. Also, some States started delegating powers to the IOs when the outcome would be in their favour. In other words, States use IOs as instruments for furthering unpopular policies in their home countries. Furthermore, IOs started gaining sovereign powers which were once exercised by the States¹⁴.

International law, finally, is limiting the power of the State within its territory. Consider, for instance, the international human rights laws. They demand greater regulation on the powers of the State with respect to the treatment of its own citizens, which was once the sole authority of the State under the Westphalian sovereignty. The violation of universal human rights of an individual, especially outlined in the ICCPR and ICESCR, even by their own government, is considered to be a “violation of international law”¹⁵ (Stephan, 2000) [23]. Such laws limit the domestic policies of the State. Also, States are bound by *jus cogens* obligations like the prohibition on genocide and torture, even without their consent. Moreover, States are also bound by environmental concerns¹⁶. Setting aside these, what is more relevant is the marriage of international laws with independent institutions for enforcement¹⁷. These developments “undermine the capacity of the States to pursue their national interest”, disrupting the exclusive relationship between “a people and their nation” (Rabkin, 2009) [24]. For instance, the European Union, with a colossal bureaucracy, is far from the principles of “electoral accountability”, suffering a “democratic deficit” (Posner and Yoo, 2004) [25]. More interestingly, globalisation creates a “transnational network of government officials”¹⁸ (Slaughter, 2004) [26].

5. CONCLUSION

In toto, the article analysed the rival theories of State viz., Pluralist, Marxist, Leviathan and Patriarchal. Secondly, I’ve explained the evolution of the State, its transition to the Nation-State, war States, Welfare States, the process of decolonisation, and the Neoliberal State. Finally, the ways through which economic and political globalisation is affecting the modern Nation-States are examined.

Westphalian sovereignty is just a myth. The States that constitute the international world order are themselves not able to control what’s going on in their territory. The force of globalisation is so intense that even a Communist country like China had to open its economy, not due to the pressure of any international institution, but by itself, tailoring its domestic policies to the changing global arena and the tsunami of globalisation. Now, a “tightly woven fabric of international agreements, organisations, and institutions” penetrates deeply into the “internal economy and politics” of the States (Chayes and Chayes, 1998). In other words, globalisation has another dimension- the States cannot “fully control the people and the activities on their territory” (Chayes and Chayes, 1998) [27]. The Treaty of Westphalia assured the States it will not be limited by the overarching powers of a supernatural entity, like the Church, feudal lords and the Holy Roman Empire. Who will assure the modern states the same degree of independence? It’s too late. The intense movement of people, goods and services, capital, information, etc., is hampering the ability of the State to regulate activities even in its own exclusive territory.

¹⁴ For instance, the European Court of Justice can “order a State’s compliance with the EU treaties” (Ku and Yu, 2013), and the judgements of the ECJ affect the domestic legal systems of the constituent States (The judgement pronounced by the ECJ on the case 6-64, Flaminio Costa vs ENEL, 1964 established the supremacy of the European laws over the domestic laws of the constituent States). Also, before NAFTA, the US Department of Commerce had absolute power to impose dumping tariffs. Now, the US tariffs on Mexican or Canadian imports are being challenged in the NAFTA arbitration panels.

¹⁵ For instance, many NGOs have filed representations to the UNHRC regarding the human rights violations by the US government following/leading to the disproportionate harm caused to the Black and poor Americans during the Katrina Hurricane in 2005.

¹⁶ For instance, Principle 21 of the Stockholm Conference, while recognising the sovereignty of the State over its own natural resources, mandates the States to manage it in such a way that it is not harmful for the environment.

¹⁷ For instance, the Rome Statute outlaws war crimes against humanity. However, it also establishes a prosecutor’s office for investigation of war crimes and the prosecution of the guilty. Transferring of such authority, exclusively vested with the organs of the State, to IOs are, diminishing the role of the sovereign States.

¹⁸ For instance, judges often invoke precedents from other States and international laws while pronouncing judgements. It creates a “transnational body of law”, leading to “disaggregate sovereignty”, where authorities of a State exercise their power not from the constitution of the country, but as part of an “international network (Slaughter, 2004). While passing the historic Vishaka Judgement, the Supreme Court invoked provisions (Articles 11 and 24) of the CDEAW.

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