



TWAIL AND THE GENEALOGY OF SOVEREIGNTY: RETHINKING BODIN, WESTPHALIA, AND BANDUNG

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Abstract

This paper re-examines the evolution of sovereignty through the lens of Third World Approaches to International Law (TWAIL), challenging its conventional European genealogy. From Jean Bodin's sixteenth-century conception of absolute power to the Westphalian ideal of juridical equality, sovereignty has been portrayed as a universal legal principle. TWAIL scholarship exposes this narrative as deeply Eurocentric, demonstrating how the modern international legal order was constructed through colonial conquest and the denial of sovereignty to non-European peoples. The paper traces this transformation across three critical moments – Bodin's absolutism, the Westphalian settlement, and the Bandung Conference of 1955 – showing how each redefined sovereignty's meaning and reach. Bandung's anti-imperial solidarity, in particular, marked a pivotal rearticulation of sovereignty as collective emancipation and epistemic justice rather than territorial control. The paper argues for a TWAIL-inspired model of relational sovereignty, grounded in mutual interdependence, peoples' rights, and decolonial responsibility. By uncovering sovereignty's imperial foundations and reimagining its emancipatory potential, the study contributes to ongoing efforts to de-centre Eurocentric legal thought and to envision an international order rooted in equality, solidarity, and global justice.

Keywords: TWAIL, Sovereignty, Decolonisation, Westphalia, Bandung, Imperialism

Introduction

International law's concept of sovereignty has long been told as a European story – from Bodin's sixteenth-century notion of absolute rule to the treaty of Westphalia proclaiming state equality. Yet TWAIL scholarship insists this narrative is deeply flawed, arguing that rather than a gift of European political philosophy, sovereignty was forged in colonial conquest and subsequently applied selectively.^{1,2} Early modern jurists like Jean Bodin defined sovereignty as “absolute and perpetual” power, and Europe's empires then applied this idea selectively.³ As Anghie and others note, international law's grand questions of order among “equal” states were moot for colonized peoples, who were legally treated as if they lacked sovereignty. In short, Western notions of sovereign statehood were imposed together with empire.⁴ TWAIL recovers these histories of exclusion and domination to show how sovereignty has been both a tool of repression and a site of resistance. This paper traces that genealogy – from Bodin and Westphalia through colonial rule – to the Bandung Conference, where newly independent states rearticulated sovereignty in anti-imperial solidarity.⁵ We conclude by sketching a TWAIL-inspired relational sovereignty: a decolonial ideal anchoring state authority in mutual interdependence and epistemic justice, beyond the narrow Eurocentric frame.

The Classical Genealogy: Bodin, Westphalia, and the Myth of Equal Sovereignty

Jean Bodin (16th c.) defined sovereignty as an “absolute and perpetual power” of the state. In his *Six Books of the Commonwealth*, Bodin famously articulated sovereignty as the supreme, indivisible authority residing within a state.⁶ This idea that a sovereign held absolute power within its territory became the foundation of Europe’s early modern order, shifting from hierarchical authority structures to centralized state power.⁷ By the Peace of Westphalia, the principle of state equality was formally proclaimed: all signatory states, large or small, were to be juridically equal, an ideal that often masked persistent power asymmetries between European nations. This formal equality, however, did not extend to non-European entities, as international law developed a bifurcated system where sovereignty was denied to colonized peoples.⁸ The theoretical framework of sovereignty in the twentieth century typically assumes a teleological progression where the modern, centralized nation-state form originated in Europe and subsequently diffused globally as the bedrock of international order.⁹ However, this territorial sovereignty enjoyed by European states was not extended to the colonized world, as leading international legal scholars during the colonial period actively justified the acquisition of non-European territories through pragmatic and positivist interpretations of state sovereignty.¹⁰ In other words, the Westphalian revolution codified a hierarchy: European states enjoyed sovereignty rights, while African, Asian and Indigenous polities were left outside the law’s protections. The classical genealogy of sovereignty thus laid a groundwork of exclusion beneath a veneer of universalism.

This hierarchical application of sovereignty, where European entities claimed absolute power within their borders while simultaneously denying it to others, highlights how the concept was instrumentalized for colonial expansion rather than serving as a universal principle of international relations.^{11,12} Moreover, Bodin’s conceptualization of sovereignty, despite its pervasive influence in legal and political sciences, was inherently shaped by a need to define absolute authority over subjects, which later enabled its selective application in colonial contexts.¹³ This Eurocentric concept of Westphalian sovereignty, therefore, stands in stark contrast to Indigenous understandings, which often emphasize relationality and interconnectedness rather than absolute territorial control.¹⁴ Early jurists like Francisco de Vitoria, while advocating for the humane treatment of indigenous populations, still denied them sovereign status, instead framing their interactions with Europeans as subject to rules governing the exercise of European power.¹⁵ This selective application of sovereignty ultimately underpinned the “civilizing mission” by which colonial powers justified their imperial ventures, positioning Western law as a superior framework for global order.¹⁶ This framework allowed for the legitimization of conquest, fraud, and intimidation against non-sovereign entities, effectively resolving any conceptual difficulties for positivist jurists who asserted the absolute discretion of sovereign states over those lacking legal personality.¹⁷

Historians now treat the **Westphalian model** itself as a kind of myth. Although often credited with inaugurating modern international law, Westphalia did **not** create genuine parity among all political communities.¹⁸ Many recent accounts argue that sovereign equality was never fully realized in 1648. Instead, it was assumed that only Christian monarchies counted as true states.¹⁹ Indeed, Bodin himself recognized limits on sovereignty (he allowed for natural law and even popes above kings), and later thinkers like Vattel built in qualifications on “uncivilized” peoples.²⁰ From a TWAIL perspective, the Westphalian era illustrates how the language of legal equality coexisted with practices of domination. The so-called “myth” of Westphalia served to legitimize specific historical narrative that obscured the exclusionary mechanisms embedded within international law’s foundational principles, particularly concerning non-European societies.²¹

The very notion of sovereignty, therefore, was not merely transferred from Europe through its empires, but was fundamentally forged in the colonial encounter itself, providing the foundational doctrines that still underpin international law today.²² This historical revisionism suggests that the prevailing international legal order is built upon doctrines that arose from the imperial search for a legal basis for colonial relations between European and non-European worlds.²³

Colonial Sovereignty: The Civilizing Mission and Juridical Empire

During the colonial era, sovereignty became an explicit instrument of empire. European powers claimed that non-white societies were “backward” or “barbaric” and needed to be governed – a logic famously dubbed the civilizing mission. In this view, native polities were by definition not fully sovereign, and conquest was cast as a rescue of ungoverned peoples. This ideology legally justified the expansion of European empires by creating a legal space for territorial growth and the taking of lands deemed *terra nullius*.²⁴ As Anghie observe, this was not a fringe ideology but an ideological foundation of colonialism.²⁵ Imperialists argued that the colonized had no real rights until “uplifted” by European rule. The result was what Anghie calls a juridical empire: international law supplied the forms (treaties, protectorates, mandates) that enabled massive dispossession. Conquered territories were redivided and administered without real consent. This approach enabled the expropriation of resources and subjugation of peoples under a veneer of legality, fundamentally shaping the modern international system.^{26,27} This perspective underscores how international law, far from being a neutral framework, was deeply implicated in the colonial project, legitimizing what TWAIL scholars term the “original sin” of its formation through the systematic plunder and subordination of the Global South by the West.^{28,29} This systematic justification, rooted in legal positivism, thus facilitated an international legal order that reflected and reinforced European experiences and power dynamics, marginalizing non-European contributions to its development.³⁰

The legal scaffolding permitted the systematic exploitation of resources and labour in the colonized territories, simultaneously denying indigenous populations their inherent right to self-determination and ownership.³¹ This paradigm, which positioned international law as a tool for transforming “inferior” non-European peoples while simultaneously dispossessing them, reveals how core doctrines like sovereignty were fashioned within the crucible of the Third World.³² This implies that the concept of universal international law, rather than being solely a European imposition, was significantly shaped by the interactions and confrontations between European states and non-European societies.³³ This provided cover for endless land seizures, “pacification” campaigns, and the imposition of European legal codes. This historical trajectory illustrates how what is now considered classical international law was inherently Eurocentric, emerging from colonial encounters to legitimize the subjugation of non-European states and peoples and the exploitation of their resources.³⁴

In effect, classical sovereignty was weaponized: law declared itself universal while so-called “natives” were excluded from it. Sovereignty in the colonial period meant external European control masquerading as rightful rule – a system that nationalists would later denounce as sheer injustice. This inherent contradiction laid the groundwork for future resistance movements, as colonized peoples began to reclaim and redefine sovereignty as a right to self-determination and emancipation rather than a tool of subjugation. Similarly, the concept of imperialism continues to be used to describe the subjugation of “non-civilized” peoples through social, economic, legal, and cultural ideas, where the biased definition of territorial sovereignty imposes itself on various topics, including humanitarian intervention and the universal application of human rights.³⁵

Bandung and the Postcolonial Rearticulation of Sovereignty

The Bandung Conference in 1955 marked a pivotal moment where newly independent nations collectively challenged the Eurocentric understanding of sovereignty and articulated a vision rooted in anti-imperial solidarity and self-determination.³⁶ This gathering of Asian and African states sought to redefine international law by foregrounding the perspectives and struggles of formerly colonized peoples, asserting a claim for true equality within the international system.^{37,38} Delegates aimed to dismantle the enduring structures of colonial power that persisted even after formal independence, recognizing that political sovereignty alone was insufficient without economic autonomy and freedom from external interference. This re-articulation at Bandung thus laid the groundwork for a post-colonial understanding of sovereignty, emphasizing a collective agency that directly contrasted with the individualistic, territorially-bound European model.³⁹ This collective endeavour sought to assert the sovereign equality of

all nations, thereby challenging the hierarchical international order established by colonial powers and advocating for a more inclusive and equitable global governance framework.

During the conference, delegates declared a transcontinental political consciousness, proclaiming colonialism and racism as global evils and demanding a new international order. The 1955 Bandung Conference can therefore be viewed as the moment when international law achieved genuine universality, signalling that the majority of the world's population either resided within an independent state or was actively engaged in a struggle for statehood, a goal increasingly supported by the framework of international law. Bandung made another significant and unique contribution to the understanding of international law: it officially recognized that racism and the political, legal, and economic structures of racial difference were deeply intertwined with the existing international legal order and the historical development, or genealogy, of the nation-state.⁴⁰ This acknowledgment fundamentally challenged the purported neutrality of international law up to that point.

Sovereignty was the foundational idea of Bandung's agenda. As Fakhri and Nesiah note, newly independent governments adopted Western-style sovereignty language but in a radically different register: sovereignty was to be pooled in anti-imperial solidarity,⁴¹ forming a "new universalism" that embraced self-determination and rejected colonial hierarchies.⁴² While this collective reimagining was critical for challenging existing power structures, it often led to a methodological nationalism that naturalized the nation-state as the primary vehicle for decolonization, even as it insisted on the extension of international rights to all peoples through this form.⁴³ This focus on the nation-state, however, sometimes overlooked alternative anti-colonial pathways that envisioned more diffuse and de-territorialized forms of resistance, as evidenced by earlier movements like the League against Imperialism.⁴⁴ Nevertheless, Bandung brought together diverse nationalist projects and class interests, forging a collective stance that transcended mere condemnation of imperialism's cultural chauvinism. This coalition actively challenged the Eurocentric foundations of international law, articulating a vision rooted in anti-imperial solidarity, self-determination, and the assertion of true equality for formerly colonized peoples within the international system.^{45,46,47}

The Bandung Communiqué, largely a product of the Political Committee, did not fully reflect the strong opposition former colonies held against the new Bretton Woods institutions and the post-war economic order. Consequently, Bandung's most significant economic impact was to define the Third World's agenda around decolonization and "national development." This latter concept was, problematically, understood as the means to achieve economic progress based on newly acquired political independence. Within this broader context, Bandung's influence extended beyond Asia and Africa, laying the groundwork for a wider Third World politics that encompassed some European countries and all of Latin America.

TWAIL Interventions: Sovereignty as Resistance and Relationality

The Third World Approaches to International Law scholarship emerged directly from the "Spirit of Bandung," offering a critical evaluation of international law from the perspective of post-colonial states. This framework systematically demonstrates how sovereignty, while ostensibly a principle of equality, has paradoxically functioned both as a tool of repression, enabling colonial and neo-colonial domination, and as a crucial site for resistance and liberation for marginalized peoples.⁴⁸ TWAIL scholarship therefore treats sovereignty not as an abstract, fixed monopoly, but as a contested practice deeply tied to justice for formerly colonized peoples. This perspective fundamentally challenges the notion of sovereignty as a neutral concept, exposing its historical complicity in colonial practices and its ongoing role in perpetuating global inequalities.⁴⁹ In this vein, Chimni emphasizes "permanent sovereignty over natural resources" as an inherent right of the people, distinct from the state apparatus or foreign investors.⁵⁰ This interpretation posits that genuine sovereignty is intrinsically linked to the collective control of resources, thereby fundamentally challenging exploitative international economic structures that frequently prioritize corporate interests and external agendas over national development and the well-being of the populace. More broadly, TWAIL thinkers advocate for a robust subaltern internationalism: a network of obligations and solidarities among Global South states and peoples designed to temper rigid state autonomy and foster collective resistance against economic and political domination. Chimni further

warns that contemporary discourses around "sovereignty" are frequently deployed as a smokescreen, actively masking the creation of new hierarchies where powerful Northern states and multinational corporations reshape the concept through ideological means, such as imposed conditionalities and investment regimes, further entrenching the marginalization of the Global South.

TWAIL scholarship thus moves beyond a simplistic binary of domination versus independence by positing a concept of relational sovereignty. Rather than viewing sovereignty as an 'absolute' and isolated entitlement or merely 'hollow juridical equality,' TWAIL envisions it as a dynamic and deeply contested practice inextricably tied to justice for formerly colonized peoples.^{51,52} This relational understanding underpins the subaltern internationalism described above, emphasizing a robust network of obligations and solidarities among Global South states and peoples, designed to temper rigid state autonomy and foster collective resistance against economic and political domination. This framework directly challenges the traditional Eurocentric narratives of international law by highlighting its pervasive role in the systematic marginalization and subordination of the Third World.^{53,54} It actively seeks to identify systematic discrimination, exclusion, and oppression perpetuated through legal mechanisms, thereby advocating for a complete democratization of both national and international governance structures to ensure marginalized voices are heard and empowered.^{55,56} Specifically, TWAIL I scholars, operating in the immediate post-Bandung era, largely focused on the Third World state as the primary unit of analysis and resistance against an unjust global order, advocating for its enhanced jurisdictional space as a means to fully materialize sovereignty and self-determination.^{57,58,59} However, TWAIL II scholarship, emerging later, critically reassessed this state-centric approach. It recognized that even Third World states could perpetuate injustices against their own populations and that a more nuanced understanding of international law's presence, rather than its perceived absence, was often the instrument of injustice.^{60, 61}

Aligned with this subaltern internationalism, TWAIL's model of relational sovereignty posits that states must recognize profound mutual dependencies—evident in complex global challenges like climate change, pandemics, and international trade—which no single state can resolve independently. Consequently, it insists that sovereign authority be exercised with explicit accountability to global justice, thereby reinforcing collective resistance against systemic domination. In practice, this entails aligning sovereignty with the transformative objectives of collective emancipation and global justice. Consistent with TWAIL's relational model, sovereignty is reinterpreted not as an instrument of exclusion, but as a dynamic, empowering practice designed to deliberately de-centre Eurocentric power, actively address the needs of subaltern communities, and foster collective resistance against systemic domination. This approach critiques the notion of universal truths in international law, arguing that such claims often mask norms and practices originating from European experiences and subsequently imposed on non-European societies.⁶²

Conclusion

Our reassessment, firmly rooted in TWAIL's critical lens, indicates that sovereignty has consistently been a dynamic and intensely contested concept, rather than the neutral, unchanging ideal frequently depicted in conventional academic texts. Its character has been redefined and exploited across various historical epochs, from Bodin's absolutist formulations and the Westphalian narrative of state equality, which often masked nascent imperial ambitions, through the explicit abuses of colonial "civilizing missions" that perverted sovereign claims into tools of subjugation, to the anti-colonial solidarities forged at Bandung. Crucially, TWAIL's genealogical analysis incisively reveals how prevailing Eurocentric historical accounts systematically obscure the enduring, insidious impact of imperialism, demonstrating with undeniable clarity that the formal structure of equal states was, in practice, deeply complicit in, and often founded upon, the subjugation of numerous non-European nations. Furthermore, this scholarship elevates Bandung as a pivotal and transformative rupture—not merely a historical footnote, but a crucial moment when leaders from formerly colonized nations collectively and strategically re-envisioned sovereignty as an emancipatory endeavour, challenging its colonial legacy and asserting a new global order. Moving forward, TWAIL scholarship unequivocally calls for building upon this foundational legacy of resistance and re-imagination. A truly decolonial understanding of sovereignty must fundamentally eschew both isolationism and an exclusive, Westphalian state-centric focus. Instead, it proactively recognizes that the

legitimate authority of states is intrinsically predicated on the just treatment and flourishing of their populations, alongside the active fostering of mutual trust and genuine solidarity among nations. Practically, this necessitates the robust democratic strengthening of international institutions, the explicit legal embodiment of “peoples” interests—prioritizing human well-being over state or corporate power—and the profound validation and integration of diverse non-Western legal traditions into global governance frameworks. Ultimately, transcending the deeply ingrained Eurocentric origins of sovereignty critically necessitates grounding the global legal order in principles of genuine mutual interdependence and profound epistemic justice, thereby ensuring that previously marginalized voices actively contribute to and fundamentally reshape the very terms of sovereignty. Only through such a radical, TWAIL-informed transformation can the traditional dichotomy of domination versus independence be decisively overcome, paving the way for the realization of a truly equitable, just, and solidaristic international community.

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