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Alternative Political Projects
After the Sovereign State

Edited by
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Imagining a Post-sovereign Polity as a “Realistic Utopia”

David Thunder

I IMAGINING A POST-SOVEREIGN POLITY AS A “REALISTIC UTOPIA”

In this chapter, I would like to consider an alternative, “post-sovereign” way of conceptualizing the polity, in particular with a view to rethinking how political authority is distributed and organized. I wish to engage in a form of “realistically utopian” thinking (to use Rawls’s term) to imagine a way of organizing a polity that prescind from the notion that one actor, such as the State, is the supreme source of law and order within a territory. The purpose of this thought experiment is less to propose a specific blueprint for political order, than to expand our moral and political imagination by exploring forms of political life that are not contemplated by the dominant paradigm of the sovereign State. I will suggest that such forms of political life are not only *imaginable* but also attractive and consistent with plausible assumptions about human nature and political behaviour.

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The purpose of this exercise in “realistically utopian” thinking is not simply to expose the limitations of our reality—though that is undoubtedly a benefit of utopian thinking—but to conjure up a set of distant yet real possibilities; that is to say, social arrangements that may not be immediately feasible, but could feasibly be realized, to a significant degree, in a world that possesses many salient features of the one we already find ourselves in. A social or political arrangement is “realistically utopian,” on Rawls’s view, if it “(probes) the limits of practicable political possibility” (Rawls 2001: 13). That is a pretty broad characterization, consistent with possibilities that could be realized in the near future, or possibilities that could be realized a hundred years from now. In any case, a realistic utopia is intended to depict a state of affairs we might eventually come quite close to realizing, at least in some part of the real world. As such, it not only serves to stretch our moral, political, and social imagination; it can also inspire incremental reforms that nudge us ever closer to the “realistically utopian” ideal.

2 THE SOVEREIGN POLITY

Before laying out some of the leading elements of the *post-sovereign* polity, I should begin by briefly sketching some of the leading elements of its foil, the *sovereign State*, which profoundly informs modern narratives of political identity, governance, and authority. The emergence of large and populous States in the modern era, with a more or less consolidated form of public administration and taxation, presented political rulers with a pressing need to legitimate a growing set of political, economic, and administrative powers over what were highly diverse societies with a range of different languages, cultures, social and economic classes, and ways of life.

The challenge of governmental legitimation was viewed by monarchs, especially from the seventeenth century on, as the challenge of justifying their claim to rightfully exercise supreme or unrivalled political authority in an age still in the shadows of feudalism, with its competing and overlapping authorities, from church and guild to prince and lord. Monarchs famously addressed this challenge of legitimacy by claiming a form of authority or just dominion over the social order that bore important structural similarities to the sovereignty of God Almighty, at least as it was widely understood in Christendom. Just as God was thought to exercise a sort of providential rule over the cosmos at large, the King claimed to

exercise a vicarious sovereign (all-encompassing and supreme) authority over his realm.¹

The democratic conception of public order as it emerged in the seventeenth- and eighteenth-century Europe and America, entailed a transfer of the powers of absolutist monarchs into a democratically elected assembly of political representatives, constrained by a framework of constitutional norms.² A critical element of the “social imaginary”³ of our era is the notion that “the people” as a whole, typically the people of a nation, somehow *authorize* a single body of rulers to oversee their common affairs, whether through an explicit grant of power or through some form of tacit consent. The narrative of the sovereign, self-governing people repudiates the claim advanced by absolutist monarchs to exercise sovereign authority in the name of God almighty, and instead stipulates that “the people,” as the presumptive source of all legitimate political power, authorizes a body of representative rulers to rule *in their name* over a defined territory.

To a significant extent, the notion of the sovereign State is a utopian (or dystopian, depending on your perspective) idealization, since it is unlikely that in a complex and dynamic society, the State can successfully redeem its sovereignty or impose its prerogatives in every sphere of life, even if those prerogatives are understood to be restricted by constitutional norms. The claims of morality, conscience, religion, and dissenting communities are likely to render its pretensions to sovereignty, or supreme and overarching authority over civil life, operationally ineffective in many instances. Nevertheless, the notion that the State is sovereign across a broad sweep of governmental functions continues to influence lawmaking, politics, and jurisprudence to a significant degree. Therefore, even if the notion of sovereign rule is something of an idealization, it is very far from being tangential to the practice of politics and power in modern societies. Its enormous

¹ One striking example is the self-description of King James I, who is reported to have said to the English Parliament on 21 March 1609, “The state of monarchy is the supremest thing upon earth; for kings are not only God’s lieutenants upon earth, and sit upon God’s throne, but even by God himself they are called gods” (Wootton 2003: 107). For discussions of the concept of sovereignty and its historical development, see inter alia Grimm 2015, Laski 1916, and King 2013.

² Morgan (1988) offers an excellent account of this transfer, mainly in the context of Britain and the United States.

³ I borrow this term from Taylor 2004. In his account, a “social imaginary” is “that largely unstructured and inarticulate understanding of our whole situation, within which particular features of our world show up for us in the sense they have” (25).

influence over the imagination of citizens, public officials, and political theorists tends to displace rival political ideals.

3 THE LIMITS OF SOVEREIGN RULE

Now, if it was just *obvious* that the ideal of the sovereign State was better than rival ideals, both explanatorily and normatively, then we should be thankful for its dominance in the popular and academic imagination. However, a realistic assessment of the emergence of civil society reveals that human societies are not anarchic collections of individuals; on the contrary, they are extraordinarily complex human ecosystems, constituted by a rich tapestry of diverse associations servicing diverse associational goods. Consequently, the story told by Hobbes, to the effect that the State rescues people from an anarchic, disorderly state of nature, by instituting an irresistible sovereign power to keep wild men in check, is a gross simplification of reality. Furthermore, if we arm the State with sovereign power, there is a real danger that it will impose its edicts and prerogatives upon rival associations, putting their distinctive normative orders and missions in jeopardy; or that this or that social group will exploit the power latent within State institutions to impose their preferred ideology and policies on other parts of society.

I am not alone in questioning the notion that society requires a sovereign State in order to be functional. There is a rich body of scholarship that puts the validity of sovereign rule in question, both from the perspective of its consistency with human freedom, and from the perspective of its capacity to accommodate citizens' day-to-day interests and needs. For example: (i) theories of democratic inclusion seek to pluralize the concept of "the people," rendering it more inclusive of minority groups (see Young 2000); (ii) defenders of indigenous peoples' right to cultural integrity and self-determination question the homogenizing logic of State administration and State-based constitutionalism (see, e.g., Kymlicka 1995, Tully 1995); (iii) socialist anarchists allege that State authority violates the right of self-determination of sovereign individuals and small, consensual communities (see Proudhon 1980/1863, Bookchin 2007); (iv) individualist libertarians reject expansive State authority on grounds of its economic inefficiency or coerciveness (see, e.g., Rothbard 2001, Hayek 2013/1960, von Mises 1983); (v) defenders of the integrity of local communities as critical infrastructures of virtue and human development rail against the utilitarian, consumerist and individualist logic of modern States (see, e.g.,

MacIntyre 1981, Hauerwas 1981, Deneen 2018, Sandel 1982, Etzioni 1994); and (vi) institutional economists working in the tradition of Vincent and Elinor Ostrom argue, using empirical case studies and principles of public choice theory, that certain forms of horizontal cooperation may be both possible and more efficient in the absence of a top-down, sovereign regulator (see Ostrom 2015/1990; Aligica 2014; Müller 2019; Gaus 2021).

The mere fact that a wide variety of scholars have put in question the utility and moral legitimacy of the sovereign State does not necessarily prove that we must abandon this approach to political power and authority. However, it does highlight a series of potential downsides to sovereign rule and gives us reason to open our mind to the possibility that a rival approach to governance and authority might potentially be more consistent with freedom and human flourishing. One obstacle to following through on this hypothesis is, of course, our inability to imagine a stable or functional political order stripped of sovereign power. The Statist “ideology of order” (King 2013), which has come to dominate our imagination, tends to blind us to the promise of more decentralised, non-sovereignist paradigms of order. The remainder of this chapter aims to challenge us to open our imagination to alternative paradigms of order and governance, by laying out a realistically utopian ideal of a post-sovereign polity.

4 IMAGINING THE POST-SOVEREIGN POLITY

Human associations require some form of steering or coordination led by individuals or groups with a socially recognized right to rule. There is governance in a chess club, in a church, in a business, and in a city, to take a few examples. I understand a *polity* to be a territorial political community that is ruled by a government (i) with a territorially defined jurisdiction; (ii) with relatively wide-ranging functions, and (iii) backed up by significant economic, social, police, and/or legal sanctions. As such, political governance, though not the only form of social governance, is likely to have an especially far-reaching impact on the overall structure of a society and on a wide range of social outcomes. Its far-reaching influence upon social life, combined with its coercive character, explain why it has attracted so much philosophical scrutiny, and why it stands in special need of justification.

Political governments can facilitate social order by defining public rules to coordinate the common affairs of a plurality of actors sharing the same

territory. However, they should not allow their governmental ambitions to threaten the institutional integrity of the self-governing associations that exist within their territorial jurisdiction. The normative orders upheld by political governments coexist alongside those of many others, from schools and universities to churches, guilds, and a vast spectrum of other cultural, economic, and professional associations. Political rulers must ensure that the normative order (action-guiding rules, customs, and shared narratives) of the political community does not homogenize associational life or excessively curtail associational autonomy, since this would be fatal for the institutional infrastructure of free and flourishing communities, which require their own distinctive methods of governance, tailored to their own distinctive values and ends.

The question is, what sort of political system could honour the complex and plural nature of social order and secure the rightful autonomy of civil, religious, and economic associations? I contend that the type of system most adequate to such a task would have to be (a) group-friendly and (b) polycentric or decentralized, in its structures of governance as well as in its methods of political legitimation. In the short space of this chapter, it is impossible to offer an exhaustive treatment of these matters. However, we can at least review some of the central features of such a system.⁴

Let us start with the term, “group-friendly.” A group-friendly theory of governance conceives the social fabric as composed of a rich tapestry of diverse associations or groups, each with its own purpose, end, or mission, as well as an internal governance structure tailored to its own mission. What makes a group-friendly account of political order distinctive is that rather than conceiving the body politic as a single, more or less uniform *demos* represented by a single people’s parliament, with generalized control over the political life of an entire region or nation, it conceives the body politic as a complex and intricate “community of communities,” an elaborate social fabric composed of a wide range of diverse associations, both territorial (e.g. towns, boroughs, municipalities, regional

⁴There have been numerous historical efforts to imagine and apply polycentric, decentralized models of governance, including defences by political and legal theorists of associative and legal pluralism, e.g. Teubner 2012, Muñiz-Fraticelli 2014, Levy 2015; and attempts by political philosophers to develop a sound theoretical articulation and defence of “bottom-up,” federated or confederal accounts of political order, e.g. Ostrom 1991, Elazar 1987. The Catholic-inspired tradition of subsidiarity (see, e.g., Cahill 2021) also advocates a strong deference towards the autonomy of local associations. This essay could be considered as one among numerous possible interpretations of these intellectual traditions.

communities, national communities) and non-territorial (e.g. universities, schools, businesses, economic cooperatives, civil society organizations, neighbourhood associations, artistic associations, museums, etc.). Whereas the standard picture of the sovereign state conceives its constituents as freestanding individual citizens, the group-friendly account of political order conceives the sources of political legitimacy and decision-making not only as individuals, but as corporate stakeholders, each with its own distinctive mission and values.

One of the central ideas behind the group-friendly approach is well expressed by the seventeenth-century German jurist Johannes Althusius, who conceives society as not only a pact between citizens, but also as an elaborate pact between *associations of citizens*. Associations are formed to serve the interests and needs of their members, but they may also submit to inter-associational pacts to meet interests and needs they cannot meet alone. The core of politics, on this view, is “the art of associating [...] for the purpose of establishing, cultivating, and conserving social life” (Althusius 1995/1614: 17). Extending this simple idea, a group-friendly republic could be formed by allowing citizens to opt in and out of a wide range of associations, each with its own functionally limited authority, and allowing these associations, in turn, to enter into mutual pacts with each other, including pacts that delegate limited grants of authority to super-associations entrusted with coordinating the common affairs of many different associations.

The logic of a group-friendly political system, i.e. a system that genuinely accommodates the needs and reasonable prerogatives of the groups it contains, would naturally give rise to a proliferation of independent centres of governance bound together by shared rules and institutions that do not strip them of their internal autonomy. In other words, a group-friendly political system would naturally be *polycentric rather than centralized*.

Polycentric cooperation within a group-friendly political system would look something like the following: First, we would see a lot of informal horizontal cooperation between citizens, who form associations of various sorts to meet shared needs. Second, we would see informal cooperation between groups, who cannot meet their needs without forging inter-associational alliances of various sorts. Third, we would see the formation of formal political and social structures characteristic of a *federation*, viz. an alliance of associations or groups that pact with each other to submit their common affairs to a shared system of government, while retaining significant governmental prerogatives at the local and/or intermediate level.

The forms of authority available in a group-friendly, polycentric system of governance, to the extent that they are not absolute or general-purpose, would be very different from the authority of a sovereign State as traditionally conceived. Authority in a group-friendly political system would be structured *polycentrically*—that is, dispersed across multiple centres, none of which exercises supreme or absolute control over the whole social fabric. A plurality of independent jurisdictions could coexist within the same geographic territory and would be expected to respect each other's independence (just as the courts and parliaments are currently expected to defer to each other's proper jurisdiction). Some of these jurisdictions would be both geographic and functional—for example the jurisdiction of a municipality or district court. Others would be almost exclusively functional—for example the jurisdiction of an international trade association or the jurisdiction of the Catholic church with respect to the spiritual and ecclesiastical questions that fall within its orbit.

These independent associations could not operate in a normative vacuum. They would have to share a common civic culture and submit to certain common rules in order to cohabit the same social space. Furthermore, they would have to develop enforcement mechanisms for dealing with infractions of or disputes over commonly accepted rules that could work in the absence of a sovereign state. Such mechanisms might include, among other things, federal and municipal judicial systems with limited jurisdictions, voluntary arbitration courts, and non-legal penalties such as loss of reputation for violating community norms. Furthermore, they would have to find a way to protect their own jurisdictional boundaries from possible incursions by neighbouring authorities, whether through political strategies, appeals to public opinion, or recourse to recognized mechanisms of legal arbitration. But some exercises of authority would remain contested even after all available legal and political channels for settling the stand-off have been exhausted. And because no single authority could claim absolute sovereignty over all other actors within a given territory, there would inevitably be an element of uncertainty and contestation, and the outer limits of social authorities could not be settled for once and for all.⁵

⁵The view that a plausible version of legal and associative pluralism entails the rejection of a single authoritative mechanism for resolving social disputes across the board is shared by numerous pluralists, including Levy 2015 and Muñoz-Fraticelli 2014.

Notwithstanding this indeterminacy, there is no reason to assume a priori that a nonsovereign, polycentric political order would be infeasible. Indeed, social and political coordination already occurs extensively at the transnational level and in private organizations without recourse to a sovereign regulator (see, e.g., Stringham 2015, Pattberg 2007, Strange 1996). Social coordination can be achieved in many contexts through reliance on custom, informal social norms, contract law, and forms of arbitration that derive their authority from social and professional prestige, independently from any sovereign imprimatur.

Finally, the group-friendly conception of political and social order, at least as I envisage it, would accept a particular normative vision of how associations ought to operate in order to benefit their members and surrounding communities. A sound social organization, on this view, ought to be (a) genuinely *participatory* in the sense that implicated parties have meaningful input into the organization’s development and decisions; (b) genuinely *self-governing* in the sense that the organization can make binding collective decisions on issues affecting its members that are not constantly second-guessed or manipulated by third parties; (c) *welfare-enhancing*, in the sense that the organization is responsive to the needs and interests of stakeholders and affected parties both inside and outside the organization; and (d) *public-spirited*, in the sense of being disposed towards voluntary collaboration with neighbouring organizations, when such collaboration can serve a wider or more encompassing public interest.

5 CONCLUSIONS

Since the ultimate purpose of my argument is to stimulate our moral and political imagination with a view to facilitating salutary institutional and cultural reforms, it would be remiss of me not to say *something* about the sorts of reforms that might advance the “realistically utopian” ideal of political order that I have laid out in this essay, and the sorts of social and political conditions that might prove fertile soil for such reforms to take root.

Let me begin with the latter question: which social and political conditions are likely to favour the sorts of far-reaching institutional reform and the sort of doctrinal revisions required for the principles of bottom-up federalism to take root in a modern society? Two conditions might greatly facilitate such reforms: (a) first, if political rulers in control of centralized

institutions see strategic benefits in renouncing some of their political power; and (b) second, if a large proportion of ordinary citizens lose faith in their existing political arrangements and find the potential payoff of radical institutional reform preferable to the perpetuation of the institutional status quo.

Whether any Western country has in fact realized either of these two conditions, or is likely to do so in the near future, is an empirical and cultural question that is quite difficult to answer definitively. It could certainly be argued that the gradual but steady implosion of the welfare state in most developed countries, and the increasing sense that economic outcomes are controlled by factors outside the control of national States, threatens national States with impending crises of efficacy and legitimacy that give them a strong incentive to enter into partnerships with other political and economic actors capable of defusing the welfare crisis and overcoming some of the inflexibility of centralized bureaucracies. In addition, the impressive growth of anti-Establishment sentiment, which has translated into the rise of populist parties promising to disrupt “business as usual,” does appear to indicate a new appetite among citizens for far-reaching change and a loss of faith in the institutional status quo. While neither the crisis of public administration, nor the public appetite for radical reform, in any way *guarantees* the success of decentralizing reforms, they certainly give such reforms a better prospect of success than they would have in a more conservative or complacent political climate.

Precisely what sorts of reforms might move existing political regimes closer to the polycentric, group-friendly ideal? The most effective package of reforms would have to be decided pragmatically, according to the level of receptivity to reform both among existing institutional gatekeepers and among the citizenry at large. Having said that, eligible reforms might include: (i) the transfer of significant fiscal and regulatory functions back to regional and municipal governments; (ii) pilot projects in tax credits citizens may apply to eligible service providers such as educational institutions and hospitals or medical centres; (iii) the erection of local civic forums at which representatives of businesses and civil society associations discuss local problems and develop policy recommendations for local governments; (iv) law reform commissions devoted to canvassing the pros and cons of different proposals for strengthening the constitutional standing and legal rights of regional and municipal political communities (v) the development or consolidation of federated (i.e. articulated into multiple levels of governance with strong local autonomy) national and

transnational associations of civil society organizations specialized in specific functions, e.g. education, art, trade, professional regulations; (vi) the forging of stronger inter-city partnerships for information-sharing, economic development, networking, and legal and policy reform, potentially sowing the seeds of federated city leagues; and (vii) the development by local and municipal rulers and opinion leaders of policies, narratives, and discourses capable of strengthening local governmental prerogatives and weakening the monistic, top-down narrative of the centralized, sovereign State.

The net effect of these and similar initiatives would be to gradually build a pool of knowledge, concepts, narratives, and customs in the legal, political, and social spheres friendly to associational autonomy and polycentric governance; and to gradually build a citizenry and an institutional infrastructure that is prepared for the practice of self-government at the local, municipal, and regional levels and habituated to bottom-up rather than top-down forms of political and social cooperation and discourse. It is only if and when the political culture and the institutional infrastructure of a society begin to embody significant measures of bottom-up, polycentric governance that a vibrant polycentric republic has a fighting chance of emerging from the ashes of the sovereign State.

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