

# Rethinking Sovereignty

Essay by Joseph E. Schwartzberg, excerpted from the Study Guide for the author's book *Transforming the United Nations System: Designs for a Workable World*, United Nations University Press, 2013.

Article 2 of the UN Charter states: "*The Organization is based on the principle of the sovereign equality of all its Members.*" Steadfast adherence to this principle, especially by nations that are politically weak, has proved to be a major impediment to Charter reform. But is this seemingly simple principle, originating with the 1648 Peace of Westphalia -- following Europe's devastating Thirty Years War and subsequently diffused by colonial powers throughout the world -- still optimal for our complex and interdependent planet? Our answer is certainly "no."

In fact, the meaning of sovereignty has been and remains the subject of heated debate. Who, for example, should be the legitimate holders of sovereignty? In the 17<sup>th</sup> century, it was generally believed that monarchs ("sovereigns") ruled absolutely and by divine right. The American and French Revolutions, however, promoted the view that sovereignty belongs to the *people* and that all citizens were equal and entitled to equal rights. Of course, this lofty view differed – and still differs – from the current political reality. As a practical matter, the ability to exercise sovereignty (i.e., to govern) in most nations claiming to be democratic republics is constitutionally delegated to *legislators* – some appointed and some elected – who may or may not exercise their powers freely.

In most of the world's nations, sovereignty is held exclusively by the central government, even though local governments may be granted the revocable power to legislate on many matters. But in twenty nations, those with federal constitutions, sovereignty is *irrevocably* divided between the central government and the nation's constituent territorial units (states, provinces, cantons, etc.), each exercising constitutionally delegated power to legislate in regard to specified issues (foreign affairs, international trade, education, health, etc.). Many of the world's most powerful, populous, largest and/or diverse nations are federations: the USA, Canada, Mexico, Brazil, Argentina, Nigeria, Germany, Russia, India, Pakistan, Australia, etc. So, too, are several highly successful, but small, states, such as Switzerland. In total, federations account for 37% of the world's population, 46% of its GNI and 52% of its land area.

Whatever a nation's type of government may be – on a spectrum ranging from truly democratic to autocratic – the Westphalian system of sovereignty conveys to that nation the right to govern exclusively over a specifically bounded area. Attempts by outside agencies, including those of the United Nations system, to legally abridge this right (among others) are almost always considered unacceptable. Nations zealously seek to preserve their *unfettered* sovereignty. While the Westphalian system, at times, worked more or less well, present-day threats to global security and sustainability make it necessary for us to reconsider adherence to the idea of unfettered national sovereignty in the contemporary world.

Although the Westphalian system *theoretically* empowers nations to control the flow of people, goods, services, money and ideas across their borders, in *practice* they do so rather poorly. Ways are almost always found to enable laundered money, migrants, black market merchandise, drugs, sex trafficking, propaganda, armaments, and other "bads" to evade government regulations. Additionally, behind-the-curtain influence peddling often enables agents of foreign governments and powerful and unscrupulous multi-national companies to influence national policies in profoundly undesirable ways.