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ARTICLE

SOVEREIGNTY AS A BRAKE ON NATIONALISM

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Even before the coronavirus pandemic, there were loud protests against “globalism” or “globalization”—terms that seemed to denote (to critics) the erasure of national boundaries. Such protests were often characterized as “nationalist.” Sometimes they were described as protests against “threats to national sovereignty.”

The rhetoric might seem interchangeable—as between appeals to “nationalism” and appeals to defend “sovereignty.” So, when he addressed the UN General Assembly in September of 2017, President Trump used the term “sovereign” or “sovereignty” a total of twenty-one times in a speech of fifteen pages.¹ In a later statement, President Trump said, “I’m a nationalist.”² The terms seemed aimed at the same political constituencies. They may appeal to similar feelings or inclinations. At first blush, they aim at the same result—blocking internationalist or “globalist” projects.

But they are not quite the same, and it is not mere pedantry to emphasize their different implications. In what follows, part I sketches the different origins and associations of these political terms. Part II develops the claim that since the beginning of the current century, sovereignty has had more force than nationalism. Part III argues that regard for sovereignty may help to tame or redirect nationalist feeling in helpful ways.

I. DIFFERENT ORIGINS

Sovereignty was the bright new idea of the sixteenth century, nationalism of the nineteenth century. The French term *souverain* was used in medieval times to designate a high level of authority, and variants were

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1. *Remarks by President Trump to the 72nd Session of the United Nations General Assembly*, U.S. EMBASSY & CONSULATES IN IT. (Sept. 19, 2017), <https://it.usembassy.gov/remarks-president-trump-72nd-session-united-nations-general-assembly>.

2. Peter Baker, ‘Use That Word!’: Trump Embraces the ‘Nationalist’ Label, N.Y. TIMES, Oct. 23, 2018, at 1.

sometimes deployed by English writers in that sense. The Oxford English Dictionary attributes the first use of “sovereignty” to a poem written in 1378 by Geoffrey Chaucer where a woman rejects her suitor’s claim to the “sovereignete [o]f me in love.”³

But the first work to discuss *souveraineté* as a precise political term was a treatise of the French jurist Jean Bodin, *Six Livres de la Republique*, which first appeared (in French) in 1576.⁴ It devoted an entire chapter to explaining the attributes (*marques*) that distinguished “sovereignty” from lesser forms of authority.⁵ Bodin’s treatise—though many hundreds of pages—was translated into English and published in its entirety at the outset of the seventeenth century.⁶ “Sovereignty”—in its political sense—then became a staple among such prominent seventeenth-century political thinkers as the Dutch jurist Hugo Grotius, the German diplomat Samuel Pufendorf, and the English philosopher Thomas Hobbes.⁷

According to the Oxford English Dictionary, the first work to use the term “nationalism” in English was published in 1798. It was a translation of a four-volume work by the exiled French Jesuit priest Augustin Barruel that had first appeared (in French) only the year before. As late as 1797, Barruel thought it necessary to explain what he meant by the term, defining it as the “love of a particular nation to the exclusion of others.”⁸

So the arrival of these terms into general usage among political commentators was separated by two hundred years or more. That was not by happenstance. These different terms addressed the very different challenges of the eras in which they entered into general usage.

Sovereignty responded to concerns that arose out of political conflicts that displaced the political order of medieval Europe. Under the feudal arrangements of that era, local lords held land in return for a pledge of fealty to some higher lord, who usually held his lands on pledge of fealty to a still higher lord, and so on up to the prince or king of the realm. It was generally thought that even a regional overlord owed some vague (and often disputed)

3. “Ye shal namore han sovereignete [o]f me in love.” GEOFFREY CHAUCER, *TROILUS AND CRISEYDE* bk. III, l, at 171 (R.A. Shoaf ed., Colleagues Press 1989) (1374).

4. The treatise was reprinted by Fayard (Paris, 1986) in six volumes corresponding to the original six “livres.” JEAN BODIN, *LES SIX LIVRES DE LA RÉPUBLIQUE* (Christiane Frémont et al. eds., Fayard 1986) (1576).

5. The list of indicators of sovereign power persuaded later generations or has intuitive logic. Every one of these marks of sovereignty—such as coining money—was assigned to the federal government in the US Constitution. *Id.* at liv. I, ch. 10.

6. JEAN BODIN, *THE SIX BOOKES OF A COMMONWEALE* (Kenneth Douglas McRae ed., Richard Knolles trans., Harvard Univ. Press 1962) (1606).

7. Most notably: HUGO GROTIUS, *THE LAW OF WAR AND PEACE* 58–68 (Louise R. Loomis trans., Walter J. Black 1949) (1625) (“Wars of Subjects versus their Superiors”); THOMAS HOBES, *LEVIATHAN* 133–41 (1651) (“Of the Rights of Sovereignes by Institution”); SAMUEL PUFENDORF, *THE WHOLE DUTY OF MAN, ACCORDING TO THE LAW OF NATURE* 214–20 (Ian Hunter & David Saunders eds., Andrew Tooke trans., Liberty Fund 2003) (1673).

8. AUGUSTIN BARRUEL, *MEMOIRS ILLUSTRATING THE HISTORY OF JACOBINISM* 181 (Robert Clifford trans., 1799) (1797).

deference in turn to the pope, as the spiritual lord of western Christendom, and to the Holy Roman Emperor, the highest temporal authority in Christendom and thus (as often envisioned) a kind of counterpart to papal authority. “Sovereignty” became an important idea when, beginning in the sixteenth century, Protestant princes sought to assert their primacy against popes or emperors outside their own realm, and against local lords who might invoke such outside authorities to justify their own resistance or rebellions at home.⁹

You can see the point from the evolution of a parallel term. In medieval times, the term “majestas” was reserved for the Holy Roman Emperor in acknowledgement of his status as the very highest authority. That did not mean, however, that he actually had reliable governing control over all the lands vaguely associated with his empire (or with Christendom). England’s Henry VIII seems to have been the first local monarch to appropriate the term “majestas” for himself, insisting that his realm was its own, entirely free-standing “empire.”¹⁰ A few decades later, Bodin used the term “majestas” as the Latin counterpart of “sovereignty”—that is, a generic term—when he translated his treatise into Latin. The word was used in that sense (as a generic political status for independent monarchs) in the treatise of Grotius in the early seventeenth century. A century later it had become standard to address independent monarchs as “Your Majesty” as the new idea expressed by this term came to be generally accepted.

“Sovereignty” was a crucial term when the independent governing authority of rulers was still much in dispute. But independent authority did not mean “national authority.” The nation was a vague concept in medieval Europe, even in early modern Europe, because kings often ruled over very different peoples dispersed in various territorial holdings, not always contiguous.¹¹ The kings of England (initially French-speaking Normans themselves) spent a hundred years fighting (and finally failing) to make good their claims to rule France between the mid-fourteenth and mid-fifteenth centuries. In the following century, Spanish and French kings battled for control of vast chunks of today’s Italy as well as today’s Belgium and Holland. Shakespeare had a good deal of fun with “ethnic” characters—the Welshman, Scotsman, Irishman, etc.—he depicted in the medieval army of Henry V on the eve of a battle in 1415, but writing nearly two hundred

9. For classic accounts, see CHARLES McILLWAIN, *THE GROWTH OF POLITICAL THOUGHT IN THE WEST* (1932); ALEXANDER PASSERIN D’ENTRÈVES, *THE NOTION OF THE STATE* (1967).

10. MARTIN VAN CREVELD, *RISE AND DECLINE OF THE STATE* 84 (1999).

11. Even in the early seventeenth century, it could be said, “the dynasty was, with few exceptions, more important in European diplomacy than the nation. Royal marriages were the rivets of international policy For all practical purposes France and Spain are misleading terms for the dynasties of Bourbon and Hapsburg.” C.V. WEDGWOOD, *THE THIRTY YEARS WAR* 18 (N.Y. Rev. Books 2005) (1938).

years later, he took for granted that these various “nationalities” would serve willingly under an English king.¹²

“Nationalism” became a challenge or an attraction when attention shifted from the ruler to the subjects—now conceived as “citizens” whose consent to rule was beginning to be considered requisite to legitimate political authority. The French Revolution brought the nation to the center of attention when it ended the centuries-old authority of the monarchy and replaced the centuries-old gathering of “Estates” (nobility, bishops, and commoners) with a “National Assembly.”¹³ The appeal to “the people” was joined with an appeal to “the nation”—as in the Declaration of the Rights of Man: “sovereignty resides essentially in the nation.”¹⁴

Not by coincidence, the French Revolution dissolved the historic provinces of France, along with provincial courts and laws, to establish a single, centralized republic. Later, Napoleon became a great sponsor of national confederations in northern Italy, Germany, the Netherlands, and Poland in the expectation that these French impositions would have more local, popular support if cast as “national” entities, supplanting ramshackle medieval holdovers. It was in the midst of this restructuring that Habsburg emperors renounced the lingering idea of a “Holy Roman Empire,” even as a ceremonial holding company for German states. Then it turned out that Napoleon’s enemies—in Portugal and Spain, in Prussia and the Netherlands, even in Russia—could appeal to national feeling as a force against French impositions.¹⁵

12. See WILLIAM SHAKESPEARE, *HENRY V* act 3 sc. 2, l. 139–42 (Henry N. Hudson et al. eds., Grosset & Dunlap 1909) (1600) for banter among English Captain Gower, Welsh Captain Fluellen, Irish Captain Macmorris, Scots Captain Jamy: Macmorris: “What ish [sic] my nation? . . . Who talks of my nation?” It is not explained why there is a Scot in the mix, since Scotland was an independent kingdom at the time of Henry’s war, as dialogue in the play acknowledges. *Id.* at act 1 sc. 2, l. 145–46 (“But fear the main intendment of the Scot, [w]ho hath been still a giddy neighbor to us[.]”). It may be that by the time Shakespeare wrote the play, he could expect his audience to look forward to a merging of English and Scottish realms when Queen Elizabeth’s crown passed to the King of Scotland, James VI (afterward James I of England). But the need to soothe ethnic or regional rivalries corresponds to the effort of King Henry to supplant feudal rank with national solidarity on the eve of battle. *Id.* at act 4 sc. 3, l. 61–63 (“For he to-day that sheds his blood with me/ [s]hall be my brother; be he ne’er so vile [in social rank]/ This day shall gentle his condition[.]”).

13. The American Revolution, though stressing “the consent of the governed” in the Declaration of Independence of 1776, avoided talk about “the nation”: the war was declared by a Continental Congress (not a National Congress) and fought by a Continental Army (not a National Army). It was still quite unsettled among the American colonies whether primary civic loyalty ran to the individual state (Massachusetts, Virginia, etc.—each declared to be “sovereign” in the Articles of Confederation) or to the United States.

14. Declaration of the Rights of Man and the Citizen of 1789, art. 3 (grounding the conclusion that “[n]o body nor individual may exercise any authority which does not proceed directly from the nation”).

15. For the most recent retelling of these episodes, see ANDREW ROBERTS, *NAPOLÉON THE GREAT* 464–97, 580–608, 662–87 (2014).

Nationalism continued as a force, even after the defeat of Napoleon, because foreign armies could not reestablish the stability of monarchies that existed before the French Revolution. The revolution against the Bourbon monarchy in France in 1830 coincided with revolutions against Dutch control of French speakers (or fellow Catholics) in what is now Belgium, a Polish uprising against Russian rule, and the settlement of a long-running revolt of Greeks against Turkish rule. There was a similar pattern among revolutions of 1848—against monarchs such as the Austrian emperor, seen as illegitimate for being undemocratic and as much (in some places) for being foreign. Enterprising sovereigns in Prussia (initially a kingdom in the northeast of German-speaking territory) and Savoy (in the northwestern corner of the Italian peninsula) achieved “national unification” in the third quarter of the nineteenth century. They did so by conquering neighboring kingdoms in the name of bringing together “Germans” or “Italians” in one “national state”—appealing, in effect, to peoples against their previous rulers in the name of national solidarity.¹⁶

At the end of World War I, the collapse of the remaining European empires—those ruled by the Austrian and German emperors, the Russian czar, and the Ottoman sultan—brought the underlying problem into sharp focus. The motto of Woodrow Wilson—“national self-determination”—could be seen as a cry for democracy but equally (and not always compatibly) a call for redrawing borders to make each state a collection of people who belonged to the same “nation.”¹⁷ The problem was that geography and demography could not be made to run smoothly together, as governments sought not only to encompass ethnic homogeneity but valuable resources or defensible boundaries. Amid political tensions of the interwar period, nationalism remained a rallying cry. Borders were redrawn under the sponsorship of a triumphant Germany at the outset of the Second World War and redrawn again at war’s end under Soviet sponsorship.

In sum, nationalism emerged as a mobilizing force in politics in the era when politics seemed to turn on mobilizing popular support—the era of democracy. It proposed an answer to a new question. Sovereignty has sought to answer the question “Should we be ruled from here or from there?” Or better, “Which *government* has the last word in political decisions?” Nationalism presses a different question: “Which *people* should be governed in common?” The questions pressed by “nationalists” were not

16. For concise accounts, highlighting disputes even among people within the emerging national states, see RICHARD J. EVANS, *THE PURSUIT OF POWER* 241–47, 249–65 (2017) (referencing Italian unification and German unification respectively).

17. MARGARET MACMILLAN, *PARIS 1919* 11–15 (Random House 2002) (2001) (analyzing Wilson’s own lack of clarity on the meaning of the term); *id.* at 109–24 (detailing the ensuing disputes about its application to particular territories and peoples, notably what became Yugoslavia); *id.* at 125–35 (Rumania); *id.* at 136–42 (Bulgaria); *id.* at 208–28 (Poland); *id.* at 229–43 (Czechoslovakia); *id.* at 257–70 (Hungary); *id.* at 347–80 (Greece and Turkey).

pressing questions in the era when “sovereignty” was regarded as a sufficient answer to the most pressing political questions.

Sovereignty and nationalism not only respond to different questions but also offer different kinds of answers. Sovereignty, as a doctrine about government, is more readily treated as a legal concept. Bodin, Grotius, and Pufendorf were jurists whose works are still studied by legal scholars and were still cited by courts many centuries after the works first appeared.¹⁸ Sovereignty is a very abstract doctrine that, from the beginning, has sought to clarify what it is that defines the status of independent states. It addresses what independent states have in common. The language of sovereignty can be readily employed by very different kinds of government: whatever their political differences, they are all independent states, so they share a common interest in defining the claims of independent states.

Nationalism is not a body of principles developed by lawyers. It is not even developed by nationalists. An advocate for national sovereignty can say, “We want to be sovereign as others are sovereign.” A nationalist presumably wants to say, “What we are is best, and we don’t care about others.” So there are many famous old books that analyze and endorse “sovereignty” but no comparable canon of famous works clarifying and endorsing “nationalism” as such. Authors have certainly celebrated their own nations but not so much “nationalism” in the abstract. A recent book that has received some attention, *The Virtue of Nationalism*, does not give sustained attention to any old book—in spite of the fact that its author earned a doctorate in political theory.¹⁹

We can conclude this initial survey by noting that international law, as we now conceive it, first achieved wide acceptance in the era when political thought focused on sovereignty. Grotius was long recognized as the “father of international law” precisely because he reasoned about the implications of a world of independent states, disregarding claims of the papacy or the Holy Roman Emperor. Classical international law focused on standards defining the rights and duties of sovereign states in their mutual interactions. Contemporary international law still bears the marks of this origin—evident

18. See *Alden v. Maine*, 527 U.S. 706, 797 (1999) (Souter, J., dissenting) (citing Bodin as “in the line” of those advocating some version of sovereign immunity); *Seminole Tribe v. Florida*, 517 U.S. 44, 151 n.44 (1996) (Souter, J., dissenting) (“This modern notion of sovereignty is traceable to the writings of Jean Bodin[.]”); *Lauritzen v. Larsen*, 345 U.S. 571, 583 (1953) (“the high seas as to which the law was probably settled and old when Grotius wrote that it cannot be anyone’s property”); *Walker v. Villavaso*, 73 U.S. 124, 126 (1867) (“Grotius, Puffendorf [sic], and other writers on public law” do not support confiscation of civilian property in circumstances here); *Perez v. Mortgage Bankers Ass’n*, 575 U.S. 92, 120 (2015) (Thomas, J., concurring) (referencing Pufendorf treatise and Blackstone).

19. YORAM HAZONY, *THE VIRTUE OF NATIONALISM* (2018).

in doctrines like “sovereign immunity” or “state consent” (that is, the consent of sovereign states, rather than “nations” or “peoples”).²⁰

We might say, then, that in the competition between sovereignty and nationalism, sovereignty has had a long head start. Perhaps sovereignty focuses on issues that are more basic or fundamental. At any rate, nationalism has not actually been catching up as an organizing force in world affairs. At least, the trend in recent decades has not been toward more accommodation of nationalism, while it has in many ways been toward accommodating (or re-accommodating) sovereignty.

II. THE WORLD RESPECTS SOVEREIGNTY

To say much about the trajectory of nationalism in recent decades requires some prior agreement on what that term encompasses. “Nationalism” seems to have first been deployed as a term of abuse or at least of disparagement: the nationalist is so devoted to his own nation that he disregards the legitimate claims of others. But even critics of “nationalism” often acknowledge that devotion to one’s own nation can be laudable, as it nourishes the solidarity and civic spirit that helps to moderate or stabilize political life through times of stress.

Sometimes commentators resolve the contradiction by resorting to a different term—“patriotism”—when they want to capture the benevolent dimension of “nationalism.” Raj Bhala is only the most recent example.²¹ George Orwell insisted on that distinction in an essay he published in 1945.²² At the time, monstrous evils unleashed by German nationalism still concentrated the world’s attention, while everyone praised the nobility of resistance to it, even though that resistance was often fueled by the resisters’ own national feeling. Orwell characterized the latter as a “patriotism,” not on grounds that it was more rational or generous but merely that it was not expansionist or aggressive. But he realized that once “nationalism” is defined as political aggression, the phenomenon has no necessary connection to nations. So Orwell acknowledged that Trotskyites, Catholics, and other advocates focused exclusively on what would help their project could be seen as displaying a kind of “nationalism.”²³

For present purposes, it might be sufficient to define “nationalism” as love of one’s nation and then leave open the possibility that the passion can often resemble the jealous passion of Othello, who “lov’d not wisely but too

20. For articles on these terms, see MAX PLANCK ENCYCLOPEDIA OF PUBLIC INTERNATIONAL LAW (Rüdiger Wolfrum ed., Oxford Univ. Press 2012).

21. See generally Raj Bhala, *Combating Nationalism by Applying Catholic Teaching and Studying Iran’s Constitution*, 17 U. ST. THOMAS L.J. 521–610 (2021).

22. 3 GEORGE ORWELL, *THE COLLECTED ESSAYS, JOURNALISM AND LETTERS OF GEORGE ORWELL* 362–63 (Sonia Orwell & Ian Angus eds., 1968).

23. *Id.*

well.”²⁴ Nationalism can inspire resistance to foreign occupiers but also hostility to neighboring states where people of the same ethnic or linguistic community are “occupied” by the neighboring majority. It can inspire fellow feeling and mutual support among fellow nationals—and antipathy to local minorities, as an alien presence of questionable loyalty.

Through most of the nineteenth century, nationalism was applauded by liberals as a reaction to oppressive empires and a grounding for popular (that is, democratic) government.²⁵ Following the First World War, it was often blamed for conflicts stirred by localized jealousies. Nationalism was blamed for fomenting conflict between the sovereignty of existing political entities and the national aspirations of submerged or scattered peoples. The most notable example was Hitler’s demand that the border regions of Czechoslovakia (the Sudetenland) be ceded to Germany because the majority of the regions’ inhabitants were of German ancestry or regarded German as their native tongue.

If we ask whether nationalism has been a powerful force in recent decades, the answer must be that, compared with claims of sovereignty, nationalism has been remarkably contained. One of the most notable facts about the world since 1945 is that national boundaries have rarely been changed. That is true even for new nations, which have almost everywhere retained the boundaries of the colonies from which they emerged. It is almost a metaphor for sovereignty: the abstraction of ruling authority remains the same, even as content (“national” content!) changes.

So, for example, in the 1960s, champions of Arab nationalism celebrated the attempted joining of Egypt, Syria, and Iraq into the United Arab Republic. Not only did the component states soon revert to independent status but each retained its original borders—though they had originally been drawn by European powers at the end of the First World War with scarcely any regard for local feeling.²⁶ Even foreign invasions and civil wars of intense destructiveness in the twenty-first century left Syria and Iraq with the same borders. One can tell the same story about carnage in wars that spilled over borders in Central Africa in the 1990s: after vast devastation, each state retained the borders assigned by European colonial powers a century before.

24. WILLIAM SHAKESPEARE, *OTHELLO* act 5 sc. 2, l. 65 (Norman Sanders ed., Cambridge Univ. Press 2018) (1622).

25. “[I]t is in general a necessary condition of free institutions that the boundaries of governments should coincide in the main with those of nationalities.” JOHN STUART MILL, *CONSIDERATIONS ON REPRESENTATIVE GOVERNMENT* 347 (1861).

26. On drawing of original boundaries—in reaction to protests and pressures from various European powers but with almost no regard to wishes of the inhabitants—see DAVID FROMKIN, *A PEACE TO END ALL PEACE* 515–67 (1989); on hopes for Arab unification, culminating in abortive construction of “United Arab Republic,” see ALBERT HOURANI, *A HISTORY OF THE ARAB PEOPLES* 401–15 (1991).

It is often asserted that resistance to the European Union is fueled by nationalism, and in particular that “nationalism” produced Brexit. But one could say with equal plausibility—and perhaps more precision—that resistance to supranational authority reflects a mounting concern with protecting sovereignty, which may or may not tap deep nationalist feeling.²⁷

There has certainly been national feeling for entities that are not sovereign. The interesting thing is that very few have succeeded since the breakup of the Soviet Union and Yugoslavia (which were artificial dictatorships) and Czechoslovakia (ruled by Communist dictatorship for decades before the breakup of its component parts). The UK has left the EU, but Scotland voted not to leave the UK. Nor has Catalonia broken away from Spain, nor Quebec from Canada. Where votes are decisive, there has not been a successful independence movement.

In some places, people of the same national origin have become dispersed across international boundaries. Many migrants from Mexico now live in the southwestern states of the United States. Many migrants from the United States now live in the western provinces of Canada. Still, the host countries have not had to contend with serious social movements urging the reconfiguration of borders. A contiguous belt of Kurdish populations in the Middle East (stretching through Syria, Turkey, Iraq, and Iran) aspires to independent statehood and might have been expected to earn sympathy through pro-Western political alignments in the wars besetting that region. But no outside state has ventured to endorse redrawing of regional borders to accommodate a separate state for Kurds.

We have, to be sure, seen efforts in Europe (and elsewhere) to revive the significance of borders by imposing new controls on the entrance of foreign nationals and foreign goods. Again, this might be blamed on nationalism but could equally be seen as a concern to revive or defend national sovereignty. No state has imposed new ethno-national controls on immigration—reserving citizenship for people of particular ancestry (as in White Australia or US policy before 1965).²⁸ Even the Trump administration ended up imposing travel controls framed not as a ban on “Muslims” (as candidate Trump sometimes promised in his loose campaign rhetoric) but as

27. See, e.g., Daniel Hannan, *The Six Best Reasons to Vote Leave*, SPECTATOR, June 11, 2016, at 1 (on the eve of the referendum by which U.K. voters decided they want to leave the EU).

28. For origins of racial exclusion in Australian immigration policy (before the 1970s—the so-called “White Australia” policy), see MARK PEEL & CHRISTINA TWOMEY, *A HISTORY OF AUSTRALIA* 109–10, 140–47 (2011). For a very detailed account of racial/ethnic limitations in US immigration and naturalization policy even before the 1924 immigration act, see ROGERS M. SMITH, *CIVIC IDEALS* (1997). In the contemporary world, Israel gives preferential treatment to immigrants of Jewish ancestry and Germany to immigrants of German ancestry, but both policies have been in place since the establishment of these states in the late 1940s, when they opened their doors to refugees of shared ancestry. These policies are not a response to any supposed recent trend toward stronger nationalist feeling. For a survey of somewhat similar policies in other democracies—none very recent, see Steven Menashi, *Ethnonationalism and Liberal Democracy*, 32 U. PA. J. INT’L. L. 57 (2010).

restrictions on entry from a small number of particular countries, already designated (by the previous administration) as countries sponsoring terrorism (and not all of them majority Muslim). For all Trump's initial demagogic impulse, the issue did not strike him or his advisors as having long-term appeal in swaying public opinion.

Similarly, there has been much protest against economic "globalization," blamed for undermining local producers of goods. Populist critics have taken aim at the World Trade Organization for limiting the capacity of governments to restrict imports or subsidize local producers. Protests against competition from foreign-made goods are, in effect, demanding stronger economic boundaries—against the world in general.

What we have not seen—at least on any large scale—are efforts to mobilize consumers to boycott imports from particular countries denounced as specially threatening or offensive to the community called to retaliate with the boycott. Protest boycotts have certainly proved consequential in the past: the movement to independence in eighteenth-century America initially mobilized public support with a boycott of British-supplied tea and then of all other British exports to America.²⁹ But in today's world, boycott movements have rarely been sustained or consequential. Trade restrictions are instruments of state policy rather than of popular mobilization—acts of sovereignty rather than expressions of nationalism.

III. RESTRAINING NATIONALISM

If it is true, as the preceding section suggests, that sovereignty has had more momentum in recent decades than "nationalism" per se, we might wonder about the relation between them. Perhaps they are not simply expressions of the same impulse but related in more complex ways, sometimes even in a reciprocal sense, such that strengthening of the one may reduce the other.

One plausible reason to think so is that sovereignty is fundamentally an institution while nationalism is a passion or mood. In the late nineteenth century, the French historian Ernest Renan said, "A nation is a daily plebiscite"³⁰—it depends on how people *feel* about it day by day. The whole point of a sovereign state is to keep wheels turning, laws enforced, services delivered, and defenses maintained, whether people "feel" this is what they want on any particular day or not.

Whereas a sovereign state keeps itself in motion, national feeling in the populace has to be mobilized. A national community can sometimes endure without an independent state to protect it. But in the modern world,

29. For a recent account emphasizing social mobilization, see MARY BETH NORTON, 1774: THE LONG YEAR OF REVOLUTION (2020).

30. ERNEST RENAN, *What Is a Nation?*, in WHAT IS A NATION? AND OTHER POLITICAL WRITINGS 247, 262 (Columbia Univ. Press 2018) (1882).

statehood has usually been the aim of self-conscious national communities. National communities usually do seek their own state and seek to remove outside control where it exists. In a word, they seek sovereignty.

In the nature of what it is, this nationalist quest for independence may inspire political protest and ongoing advocacy. But if it aims at sovereignty, the intensity of political agitation tends to dissipate when that aim is achieved. German nationalism was not satisfied with overturning the limitations (in territory and military rearmament) imposed by the Treaty of Versailles after the First World War. The Nazi dictatorship reversed those limits and then pursued wider conquests. But, after all, it was a dictatorship. We certainly have grounds to doubt that, if Germany had a democratically accountable government in 1939, that government would have had the confidence even to launch the invasion of Poland in 1939, let alone the wider aggressions that brought ultimate ruin to Germany.³¹

The French counterexample is more telling. During the Second World War—or at least, following indications that eventual Allied victory was likely—all shades of French opinion supported the recovery of national sovereignty. That did not mean “nationalism” could keep French voters focused on a shared agenda thereafter. In 1947, Charles de Gaulle tried to supplant party politics with what he called the “Rally of the French People” (*Rassemblement du Peuple Français*) rather than a party with a more focused agenda. It did not prevent other parties from resisting de Gaulle’s agenda, nor from committing France to European institutions (ultimately including the Common Market, forerunner of the EU), of which Gaullist nationalism remained suspicious.³² Nationalist war leaders saw their parties rejected by voters in many postwar democracies, notably Churchill’s Conservatives in Britain and Roosevelt’s Democrats (in the first postwar congressional elections).³³

31. See RICHARD OVERY, *WHY THE ALLIES WON* 298 (1995) (surveying evidence that “[a]ggressive war was not a popular choice” among Germans in 1939, so they responded to the outbreak of war not with enthusiasm but indications of “depression”).

32. De Gaulle’s postwar memoirs distinguished the grateful loyalty of the people at large from the schemes of party leaders—without explaining where the latter got their votes: “I had enjoyed [immediately after the war] the massive support of popular opinion. By contrast, the various political, social and economic interest groups which had rapidly returned to the limelight were very lukewarm in their approval. No sooner had the enemy departed than they bombarded me with a multiplicity of recriminations of every sort and on every subject.” CHARLES DE GAULLE, *MEMOIRS OF HOPE: RENEWAL AND ENDEAVOR* 5 (Terence Kilmartin trans., Simon & Schuster 1971) (1970).

33. In the British General Election of 1945, “the spirit was more sober [compared with the election after World War I] and focused more precisely on housing and health, full employment and industrial regeneration, on post-war social imperatives. . . . In this sense, the power and prestige of Winston Churchill, the revered war leader, were an irrelevance.” Kenneth O. Morgan, *The Twentieth Century* (1914–1984), in *OXFORD HISTORY OF BRITAIN* 523, 567 (Kenneth O. Morgan ed., 1984). The 1946 American congressional elections saw Republicans earn a record high percentage of votes for House seats (the highest between 1928 and 1988) by focusing on domestic economic concerns: “‘Had enough?’ was the Republican slogan in 1946. Enough strikes, enough

The point is not so much the sequence: first, nationalist mobilization; then, restoration of sovereignty (or securing of independence) . . . finally, popular distraction. Sovereignty may be an inherently moderating force. Sovereignty as an institution has somewhat the relation to nationalist passion that property has to acquisitiveness (the passion for wealth). Most people, at some times, long for coveted delicacies they cannot yet acquire (or acquire on the scale they dream about). But appetites are personal. To think of what we already own as property is to think of it as part of a system in which what is ours by law corresponds to what by law belongs to others. To think this way is to accept limits for the sake of security. To think of sovereignty is to think of a system in which various states can also make claims to sovereignty. It is to think in ways that are self-limiting. Sovereignty in that way may encourage limits on nationalist thinking.

Ultimately, the most important point is not a reduction in the intensity of feeling but a change in focus. One could think of sovereignty as bearing the same relation to national feeling that marriage does to romantic or erotic feeling. It is quite possible to have a sovereign authority that exerts its authority over people of many different nationalities (in the emotive or ethnographic rather than the strictly legal or political sense of the “nationality”). Over the course of history, such agglomerations were often acquired by dynastic marriages that united territories without necessarily inspiring great love between the original marriage partners, let alone their respective peoples. But even couples who come together in romance often find themselves, in later years, more focused on children and mortgage payments. They are no longer merely a couple but the core of a household and a family. You might see the transition as a sad cooling of ardor. But you might rather see it as transforming impulses of passion into a more reasonable or more durable expression.

Nationalism appeals to “the nation” as if it were a natural or preexisting community. Like lovers, nationalists want to say, “We were destined to be together.” But a couple is a community of two, who can be enshrined forever in one photograph. A nation is multitudinous. So nationalism has always faced the challenge of determining who belongs in the grouping it regards as “the nation.” Is it a community of common ancestry? Common language? Common religion? Common enemies?

History has often thrown people under the same political authority who do not share these commonalities. Rulers have often exerted much effort to coerce people to adopt the approved language (or the standardized version of it) along with the approved national religion. They have often discovered that this foments division rather than unity. Renan pointed out that to feel French, it was necessary to forget the tribal divisions (Francs,

meatless days, enough wage and price controls . . . [e]nough inflation, enough high taxes, enough coddling of unions.” MICHAEL BARONE, *OUR COUNTRY* 187–88 (1990).

Alans, Burgundians) that preceded *French* nationality and to forget the persecutions imposed by centralizing rulers (like the massacre of Protestants during the Reformation or of Catholics during the Revolution).

For a people to maintain a sense of shared nationality, it is not enough that they embrace a sense of commonality. They may also have to adjust to their differences. That may require the sort of forgiving and forgetting that marriage counselors urge to maintain a marriage and a family.

CONCLUSION

To return to the initial question: the mood of opposition to transnational governing structures has resonance on both the left and the right. The Left has long protested trade agreements that (so critics claim) undermine protections for workers (and for consumers and the natural environment) at home. Long before rioters broke windows in Seattle to demonstrate “antiracism,” they did so to demonstrate anti-free-trade feeling during the Seattle meeting of the World Trade Organization in 1999. The Left takes for granted that foreign wars are bad, even if undertaken with allies or on behalf of allies. There are counterpart sentiments among many nationalists now thought of as being on the right. But the novelty of candidate Donald Trump (and the key to his initial success) was his capacity to draw voters, such as factory workers in Midwest states, who had previously voted for Barack Obama and local Democrats. As the new Conservative Party leader, Boris Johnson won support in districts in Britain that had supported the Labour Party for many decades, partly because his support for British withdrawal from the EU had broad support in the English Midlands.

Despite such overlapping inclinations, politics in many countries now seems intensely polarized, even tribalistic in the intensity of distrust that particular subgroups feel for others. There may be no simple cure for this condition. But where nationalism often divides—because it is an appeal of “us” against “them”—an emphasis on national sovereignty can be a restraining force. Do we want to be one country, sharing a common government—or break apart?

In a world of tumult, sovereignty cannot be taken for granted. Perhaps it would be safer to entrust more authority to transnational organizations to protect trade flows, human rights, environmental standards, and security against rogue states or would-be aggressors. A nation that insists on its right to decide for itself must first maintain the capacity to make decisions or to sustain a political authority it trusts to make decisions.

All that requires that people within a country learn to be more trusting of each other. Today, that looks like a very hard challenge! It may be human nature to be more trusting of those we see as most like ourselves—to be tribal. Early theorists of sovereignty recognized that in a democracy, sovereign power would be held by the citizenry at large, but only if they

were capable of acting together. Whether we are capable of that may seem in doubt when protestors battle police and try to deface or tear down national monuments. But the logic of sovereignty points away from racial divisions: “In the eyes of government, we are just one race . . . It is American.”³⁴ Trying to maintain a common government may be a unifying effort. It aims at structure, law, stability—good things, especially where more intense passions threaten brutal conflict.

34. *Adarand Constructors, Inc. v. Peña*, 515 U.S. 200, 241 (1995) (Scalia, J., concurring).