

Abstract

It is a *topos* of postmodern law and political philosophy to speak about the "change" of the concept of sovereignty, and to put the current forms of state existence in opposition to the "classical" theory of sovereignty. The theoretical content of this "classical" doctrine is too easily identified with the empirical reality of the Westphalian state system and understood as an apotheosis of the autonomous, independent states and legal systems. In this thesis I have therefore tried to investigate the logical core of the doctrine of sovereignty of two important political philosophers of the 17th century, Thomas Hobbes and Samuel Pufendorf. Based on the analysis of the central works of both authors, in the light of the latest research, the work shows that their understanding of sovereignty can only be understood with the help of the analysis of the concept of fictitious (or fictitiously) created artificial (moral) person. Sovereignty is no term for an empirical force or violence, but the name for an imaginative absolute power that is connected to the artificial sphere of fictitious legal reality which is radically separated from the empirical world. The „sovereign power of the Commonwealth“ is related to the fictional character of the state, which is identical to the concept of people (*populus*). The people exist for Hobbes and Pufendorf solely on the abstract transcendental level, as a unit that can act empirically only through the person of a representative. In contrast to the republican conception of representation in terms of a re-presentation of an already existing community, there is no entity-to-be-represented before the very act of representation. This understanding justifies, on one hand, the logically unlimited character of the power of the sovereign representative (since its source is the fictitious person of the state), but, on the other hand, it in no way precludes the possibility of a revolutionary change of the representative sovereign. The absolute character of sovereignty does not mean, therefore, that the *de facto* power of the state and its legal system are unlimited, but that the barriers are not to be found in the sphere of empirical reality and the natural freedom.

The localization of sovereignty in the area of the fictional State means that the concept of sovereignty for Hobbes and Pufendorf finds its role primarily in the imaginative constitution of social reality. The fictitious sphere is for Hobbes identical with the imaginative world. The sovereign state is imagined as sovereign political community. Thus, this "classical" concept of sovereignty cannot be negated by the mere fact that states are no longer fully autonomous actors in the world today. The issue is not whether they *de facto* have an unlimited power (which of course is nonsense), but whether the social imagination of reality by using the concept of sovereignty may still be relevant.