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The Concept(s) of Sovereignty in the Scottish Independence Debate[1]

Summary

The aim of the article is to analyze how the concept of sovereignty (the main theoretical category of this text) has been conceptualized/criticized/interpreted during the recent Scottish independence debate, which took place in the period preceding the independence referendum of 18 September 2014. This concept is closely related to the categories of independence and sovereign. The pronouncements on sovereignty present in the intellectual output of three groups are discussed: academics; politicians and political activists; and public intellectuals. An analysis of each type of discourse is produced with a concise partial conclusion, which in the final part are synthesized into a general thesis of the article. The majority of the discussed sources had been made public (i.e. published or presented) no earlier than

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in the Autumn of 2012. Among these sources there are non-fiction books (academic and essays), academic articles and presentations. This analysis has led to the following conclusions: sovereignty is perceived as relevant in the interdependent 21st century world, as states still remain capable (international pressures and cooperation notwithstanding) of shaping their internal and external policies. It is also generally accepted that the holder of sovereignty, especially in the Scottish case, is the Scottish nation. This assumption leads to calls for the reform of the British constitution, reconciling the existence of various sovereign nations in the United Kingdom, with the sovereignty of parliament.

Keywords

British Constitution, Federalism, Independence, Independence Referendum, Scotland, Sovereign, Sovereignty, International Relations, Globalization

KONCEPCJA (KONCEPCJE) SUWERENNOŚCI W SZKOCKIEJ DEBACIE NIEPODLEGŁOŚCIOWEJ

Streszczenie

Celem badawczym artykułu jest przeanalizowanie, w jaki sposób pojęcie suwerenność (główna kategoria teoretyczna tekstu) było konceptualizowane/krytykowane/interpretowane podczas niedawnej szkockiej debaty niepodległościowej, trwającej w okresie poprzedzającym referendum z dnia 18 września 2014 roku. Pojęcie to jest ściśle powiązane z kategoriami niepodległość oraz suweren. Analizie poddane zostały wypowiedzi na temat suwerenności sformułowane przez przedstawicieli trzech grup: badaczy, polityków i osób zaangażowanych w politykę oraz liderów opinii. Analiza poszczególnych typów dyskursów została zakończona zwięzłymi wnioskami cząstkowymi, które w części końcowej zostały ujednolicone, przyjmując postać zasadniczej tezy artykułu. Zdecydowana większość wykorzystanych źródeł została upubliczniona (tj. opublikowana lub wygłoszona) nie wcześniej niż jesienią 2012 roku. Wśród nich znajdują się druki zwarte (książki akademickie i eseistyczne), artykuły akademickie oraz teksty wystąpień. Podjęte badania przyniosły następujące wnioski: suwerenność zachowuje swe znaczenie w realiach gęstej globalizacji pierwszych dekad XXI wieku, gdyż państwa wciąż dysponują (niezależnie od konieczności współpracy międzynarodowej czy presji czynników zewnętrznych różnego typu) instrumentami umożliwiającymi kształtowanie ich polityki zewnętrznej i wewnętrznej. Szeroko akceptowane jest także twierdzenie wskazujące,

że suwerenem w warunkach szkockich jest szkocki naród. To pociąga za sobą głosy opowiadające się za reformą brytyjskiego ustroju, godzącą zasadę suwerenności parlamentu z suwerennością poszczególnych brytyjskich narodów.

Słowa kluczowe

konstytucja brytyjska, federalizm, niepodległość, referendum niepodległościowe, Szkocja, suweren, suwerenność, stosunki międzynarodowe, globalizacja

INTRODUCTORY REMARKS

The aim of this article is to analyse how the concept of sovereignty has been used, conceptualized, criticized, understood etc. during the recent Scottish independence debate, which took place in the period preceding the independence referendum of 18 September 2014.

The outcome of the referendum was a clear majority supporting the continuity of the United Kingdom and thus opposing an independent Scottish state.[2] Nevertheless, the plausibility of independence had contributed to the creation of an exceptional period, during which the concept was for a long time, and rather fiercely (the basic question being does sovereignty matter at all in an age of dense globalization?), debated among the world's academics, has become an outstanding feature of the public discourse and debate. Subsequently, the theoretical intricacies of sovereignty (and independence, it must be added, as these two concepts are very closely intertwined) or the tension between its internal and external dimensions were discussed not only by the academics, but also by the authors, usually only incidentally (if at all) interested in it. Furthermore, some of the authors associated the subject of sovereignty with calls for reform of the British political system.

Hence the analysis undertaken here should lead towards three general conclusions indicating:

2 With a turnout of 84.6%, 55.3% of the voters were against independence. It is important to notice however, that four council areas (out of 32) with substantial populations voted for independence: Dundee City, Glasgow, North Lanarkshire and West Dunbartonshire.

a) if among various conceptualizations there was/were a dominant way/ways of understanding the concept of sovereignty;
b) if there were any noticeable differences in such an understanding among professional groups whose intellectual output is going to be studied;
c) The possible directions of the debate regarding the renewal of the British political system.

The article contains six concise parts. Each of these parts will be summarized with a short partial thesis. The general thesis is going to be presented in the conclusion. The present part discusses the necessary introductory remarks. The second will be devoted to the brief discussion of the concept of sovereignty, i.e. the central analytical category. In the further three parts the usage of the sovereignty concept in the texts produced by various groups is going to be discussed. These groups are going to be divided into three 'realms': the realm of academia (the focus here is on the academic debate on Scotland's potential sovereignty/independence), the realm of politics (in this broad category political parties, politicians and civic society movements are included) and finally the realm of opinion (in this category thinkers – or in other words: public intellectuals – are included i.e. leaders of opinion, who often express their views not only in the media, but also in longer and more in-depth forms). The inclusion of a given author in one of the aforementioned groups is determined by her/his main social role.[3] With one or two exceptions, the majority of the discussed texts had been made public (published, presented) no earlier than in the autumn of 2012, a time when Scottish independence

3 Alas, in certain cases this was not a straightforward task: the academic John Kay is a prominent "Financial Times" columnist; Gavin McCrone not only has vast academic experience, but has also worked for extensive periods in the civil service and as a government advisor; a journalist George Kerevan is a longtime member of the Scottish National Party and recently has been nominated as the SNP's candidate for East Lothian Constituency in the 2015 Westminster election; Gerry Hassan, an active commentator, is a Research Fellow in cultural policy at the University of the West of Scotland (holding a recently awarded PhD on political and cultural contemporary debate in the public sphere of Scotland) and the author of acclaimed academic texts; David Torrance occupies similar middle ground between media and academia, without the institutional ties to the second, though.

became a legal possibility. Among those texts there are non-fiction books (academic and essays), academic articles and presentations.

WHAT IS SOVEREIGNTY?

The literature on the subject of sovereignty is vast as this concept is of obvious importance for political scientists, lawyers or philosophers of politics.[4] Because of its centrality, basic knowledge regarding the core meaning of this concept can be safely assumed among the potential readers of the present article. On the other hand, the complexity of this concept and its various interpretations, make it necessary to explain how the present author interprets it, and what meaning of it is going to be applied in the further considerations. Below, the linguistic meaning of the closely related concepts of sovereignty and sovereign (noun and adjective), as well as two recent theoretical approaches to it, are going to be briefly discussed.[5]

Słownika języka polskiego (Dictionary of Polish Language) edited by Witold Doroszewski (<http://doroszewski.pwn.pl> accessed 15.10.2014) defines sovereignty as: independence regarding political, economic and social matters of a state; lack of interference from other states in the internal and external actions of a state; the highest authority. A subject is sovereign (adjective) when it is independent in its actions or has at its disposal the highest authority. Such are the features of a sovereign (noun).

4 In the opinion of the present author, besides the works on sovereignty discussed in the main text, the studies regarding this subject by the following authors shall be considered as especially valuable (their views are approximate to the interpretation of sovereignty conceptualized in the present part of this article): [Barkin, Cronin 1994; Czaputowicz 2013; Habermas 1998; Habermas 2012; Jackson 1999; Jackson 2007; MacCormick 1993; Osiander 2001, Troper 2012].

5 In this part I use the fragments of my in print article *Gdzie uplasować suwerenność w ustrojach federalnych? Wprowadzenie do analizy ustrojów Republiki Argentyńskiej, Stanów Zjednoczonych Ameryki oraz Konfederacji Szwajcarskiej* (English title: *Where to locate sovereignty in the federal systems? An introduction to the analysis of the political systems of the Argentine Republic, United States of America and Swiss Confederation*).

The dictionary of the English language available at: <http://www.oxforddictionaries.com> (accessed 15.10.2014) defines sovereignty as supreme power or authority. It is also the authority of the state to govern itself. In turn, (a) sovereign is defined as the supreme ruler (noun) or describes (adjective) a feature of a certain subject, possessing supreme or ultimate power (e.g. the people) or capable of acting without external interference (e.g. state).

The online dictionary <http://www.rae.es/recursos/diccionarios/drae> (accessed 15.10.2014) of the Royal Spanish Academy (Real Academia Española) defines sovereignty (*soberanía*) as the highest authority. A state's sovereignty (*soberanía nacional*) on the other hand is an attribute of the people (*pueblo*) and it is actualized through representative constitutional institutions of the state. Hence, the people are the sovereign (*soberano*) as they perform the role of the highest and independent authority.

In the Larousse dictionary of the French language <http://www.larousse.fr/dictionnaires/francais-monolingue> (accessed 15.10.2014) a reader may find a rather extensive definition of sovereignty (*souveraineté*). It is the highest authority of a state, exclusively possessing the competences to act in the internal sphere (internal sovereignty) and absolute independence (*indépendance absolue*) in the sphere of international relations (external sovereignty). Any limits to such independence may stem exclusively from sovereignly accepted obligations.

Those basic features of sovereignty are elaborated upon in theoretically oriented approaches.

Jerzy Kranz [Kranz 2012, 2013] in his analysis of the concept of sovereignty distinguishes between its internal (nation's sovereignty) and external aspects (state's sovereignty). The first aspect allows the sovereign (the people, nation, citizens) to freely shape the internal reality of the state i.e. its institutions and policies (regarding social matters, taxation, health etc.). To a certain extent this capacity is relativized by globalization/interdependence, but – as Kranz stresses – it does not mean that internal sovereignty is becoming (or already is) irrelevant. The second aspect concerns the relations of the state with other subjects of international law. What is important, in Kranz's view, is the fact that the states which are bound by the international law not only leads towards the domestication of the international relations (they are becoming more civilized), but also guarantees

a certain degree of protection of their internal sovereignty. Equally crucial is Kranz's opinion on the indivisibility of sovereignty [Kranz 2012, p. 116]: it is a qualitative and not quantitative concept (similar to equality, dignity or justice); hence, it cannot be gradated. Subsequently, it is not possible to hand over sovereignty or its part. What is possible, however, is to entrust the exercise of certain competences of which sovereignty consists. Such a delegation might be revoked, as the delegating subject still possesses its sovereignty. In consequence, European Union member states or even heavily indebted states remain sovereign [Kranz 2013, pp. 127, 164-169]. It should be remembered that the legal equality of sovereign states does not stipulate their equal capacity to act, as this depends on objective factors (e.g. natural resources), international obligations and the type and quality of the political system [Kranz 2012, p. 115].

In turn Ryszard Stemplowski considers three approaches to the concept of sovereignty: dualist, monist and holistic [only the last one, as the most important, is going to be discussed in the present article; Stemplowski 2006, pp. 103-110]. The frame of reference of his analysis is the processes of the integration of states. The initial assumption of the holistic approach is that sovereignty is indivisible. In consequence, the integrating states (or – in a broader sense – cooperating states) do not forgo any part of their sovereignty, but instead they only self-limit their individual actions towards a certain aim, as they beforehand notice and understand that such an aim can be achieved only through cooperation with other states. As these states are fully sovereign, they can pursue the above-mentioned aim in a solitary manner. However, such a strategy might be detrimental and contrary to their national interest as only international integration/cooperation makes the achievement of such an aim plausible. As Stemplowski observes, not only individual action should be perceived as sovereign action. Moreover, whatever the proportion of individual and cooperative/integrated actions of the state is, it is still a sovereign state [Stemplowski 2006, pp. 105-106] as "[s]overeignty is an inalienable feature of the state; it is indivisible and exists as long as the state itself exists; at the same time, however, this state may entrust certain competences to the international body established jointly with other states" [trans. SB; Stemplowski 2012, p. 83]. Accordingly, such a decision is sovereign; the decision to revoke the discussed entrust would

also have to be considered sovereign. It is also of high importance to remember that conceptualizations of sovereignty are linked to the changing nature of the contemporary state and globalization; hence, it is a highly dynamic concept [Stemplowski 2013, pp. 205-207].

The above-considered brief definitions and two theoretical conceptualizations, lead the present author towards the following understanding of the concept of sovereignty:

a) Sovereignty is the supreme authority (in a state);
b) Such supreme authority belongs to the sovereign (usually the people) and is enshrined in the constitution[6];
c) If it is the supreme authority, its indivisibility must be assumed (only one supreme authority can exist at a certain point in time);
d) Sovereignty has two facets – internal and external; in both spheres the sovereign can act without interference from other subjects (this does not mean that, for example, the external context shall not be taken into account);
e) It is impossible to cede a part of indivisible sovereignty, as it is qualitative and not quantitative (hence it is not possible to be partially sovereign);
f) It is possible, however, to entrust the enactment of certain competences to the international organization etc.
g) In an interdependent world, the aim of such a common action is to enhance a state's sovereignty and not diminish it;
h) Such an entrustment of competences is revocable as the state remains sovereign;
i) The legal equality of sovereign states does not stipulate their equal capacity to act.

6 As the present article discusses British politics and interpretations of sovereignty, its reader should bear in mind one important fact. In the British constitutional system, at least in theory, sovereignty belongs to the Parliament. It should be remembered, however, that recent constitutional developments – among them especially, but not only, the devolution by which autonomous (sovereign?) institutions had been created for Northern Ireland, Scotland and Wales – have severely limited parliamentary sovereignty. These tensions are extensively discussed by Vernon Bogdanor in: [Bogdanor 1999, pp. 287-298; Bogdanor 2009, pp. 111-119].

THE REALM OF ACADEMIA

During the Scottish independence debate various aspects of the concept of sovereignty were discussed among the academics. Such voices can be broadly divided into two categories. The first of them can be described as general observations on the nature of sovereignty in the 21st century; the second deals with sovereignty as related to possible constitutional reform. In this order these interpretations are going to be discussed below.

The question of sovereignty was discussed during one of the seminars co-organized by The Royal Society of Edinburgh and the British Academy for the Humanities and Social Sciences.[7] This particular seminar can serve as a good introduction to the present considerations, as the views concisely expressed in then, generally reflect the tenor of the sovereignty discussion during the independence debate. In the course of this seminar Vernon Bogdanor had clearly stated the interdependent nature of the contemporary world, because of which "[s]overeignty matters much less than it used to" [*Scotland's Referendum and Britain's Future* 2014, p. 223]. In consequence, independence in the contemporary world is limited by various factors. At the same time, however, contemporary independent states still have at their disposal a relatively broad space for autonomous actions. This view was shared by Michael Keating, though he differentiated between the concepts of independence and sovereignty. In the first respect, he stated that independence no longer can be perceived as absolute, nevertheless contemporary states still enjoy "[c]hoices, for example about which unions to join and which opportunities to negotiate" [*Scotland's Referendum and Britain's Future* 2014, p. 225]. In the second respect, Keating signalled discrepancies between the Scottish and English understandings of sovereignty; i.e., the absolute sovereignty of Parliament (as in the English case), and sovereignty leaning towards the people (as in Scottish case). The tension originating from such discrepancies, was in his opinion the main cause of the independence referendum.

Keating, together with Malcolm Harvey [Keating, Harvey 2014], elaborated upon his understanding of sovereignty in a book *Small*

7 The seminar took place on 5th March 2014.

Nations in a Big World. What Scotland Can Learn? As the title suggests, the main question it addressed was: to what extent are states that are relatively small in terms of population and territory (e.g. the Nordic Countries, the Baltic States, and Ireland) capable of pursuing their independent policies in an interdependent world? In other words: to what extent are they sovereign in the face of globalization?[8] In order to answer such questions the authors undertake an analysis of the three aforementioned examples. For them, each of these cases constitute an original adaptation strategy to the dynamic international milieu. The Nordic Countries rely in their approach on deliberation, consensus and compromise (the social common denominator), leading to the continuing existence of various welfare state models (a diversity of attitudes but with common welfarist features) and, subsequently, to – among other things – the very high quality of human capital [Keating, Harvey 2014, pp. 90-91]. In the Baltic States the stress is put on neo-liberal strategies, containing for example limited social spending, budgetary prudence and flexible labour regulations [Keating, Harvey 2014, pp. 102-104]. Ireland constitutes a separate case, in which various aspects of both the aforementioned approaches can be recognized [Keating, Harvey 2014, pp. 117-119]. It is important to notice that in spite of the modifications accommodating – among others – the effects of the recent 'Great Recession', the general premises of each of these strategies are intact. The authors conclude that:

1. Smaller European states can be successful when it comes to the adaptation to the global competition and external pressures;
2. There are at least several possible ways in which it can be accomplished.

As a result, such countries should be perceived as sovereign, for they are not "[t]he passive victim of impersonal global forces" [Keating, Harvey 2014, p. 28]. Moreover, the authors seem to lean towards a view that smaller (i.e. more flexible) states are in fact better equipped to face the challenges of globalization [Keating, Harvey 2014, p. 52].

8 The present author has the impression that in this work by Keating and Harvey the demarcation between sovereignty and independence is somewhat blurred, and both concepts are used alternately.

Also Neil Walker seems to accept the view – albeit the tone of his considerations is less optimistic than in the case of Keating and Harvey – that sovereignty currently still offers enough space to pursue aims which best serve the national interest. At the same time, however, he insists that the question regarding the feasibility of sovereignty in the contemporary world is legitimate, because of its relativization (it is worth adding that for him the already existing states must face the pressures coming from both the sub-state and transnational levels). As a result, potential future states, aiming at the separation from the larger units, before deciding to do so, should first perform a careful balancing act "[b]etween decisional autonomy and retention of capacity and influence" [Walker 2013, pp. 27, 29, 33]. Walker's views in this respect resemble to a certain extent the opinions of M. Keating presented at the London seminar.

A similar cautiously optimistic view of sovereignty in the contemporary world is presented by Iain McLean, Jim Gallagher and Guy Lodge [McLean, Gallagher, Lodge 2013, pp. 19-47].[9] As the authors weigh up the contours of Scotland's independence – they have no doubts the Scottish state would have been capable of being independent – it is stressed that the exact scope of its sovereignty would depend on the policies that it chose to pursue (e.g. on currency), alliances formed (e.g. the conditions of the future membership in the European Union) and some external factors beyond its control (e.g. the volatile prices of oil and gas).

James Mitchell can be placed on the opposite end of the sovereignty debate, as his understanding of its contemporary meaning is noticeably bleaker. As Mitchell observes, the actual capacities of sovereign states tend to be very different. Nevertheless, it is obvious for him that even the world's solitary superpower (i.e., the United States) is to at least some extent limited in its sovereign actions (internally and externally). As the formal approach to sovereignty tells us very little about the real capacities of a given state to act, it is necessary to focus on factual sovereignty too. Such observations lead Mitchell to the obvious question: is it possible at all for any state to claim that it is sovereign/independent [Mitchell 2013, pp. 49-50, 54]?

9 See the present author's review of this work in [Bober 2014].

Also John Kay [Kay 2013] perceives the constitutional and political arguments about the nature and scope of sovereignty in the context of interdependence as having little meaning. He stresses the fact that in the current phase of globalization, what matters most is economic efficiency [Kay 2013, p. 63], of which the exemplary models are Finland and Switzerland [Kay 2013, p. 60]. Kay also equates sovereignty with the coercive force of the state and the capacity of acting without the interference of others [Kay 2013, pp. 61-62]. Such an interpretation of sovereignty is surprisingly limited, especially in the face of the economic efficiency argument: it is the sovereign who debates and enacts the strategy aiming at the achievement of the economic efficiency in an interdependent world. Hence, well-functioning social and political institutions are necessary in order to discuss the economics. The quality of them (as in the Finnish or Swiss cases) seems to be closely related with their economic success.

The above-discussed tensions (especially economic) related to the concept of sovereignty, are concisely summed up by Andrew Goudie [Goudie 2013] and Gavin McCrone [2013[10]]. In Goudie's opinion, the concepts of sovereignty/independence/self-determination without any doubt continue to be important in the contemporary world. What needs to be stressed, however, is that to a certain extent they are constrained by various, sometimes substantive, external factors (e.g. global and regional institutions). Nevertheless, various elements of economic policy continue to be controlled by states; hence, the governments are still capable of pursuing certain goals, policies etc. [Goudie 2013, pp. 22-23]. The views of McCrone are not dissimilar, as he observes:

> [I]n practical terms, no government can pursue policies regardless of what its neighbours and trading partners are doing. All economies nowadays are interdependent, as can readily be seen from the effect on the UK of policies in the United States and the European Union [McCrone 2013, p. 36].

On following pages he adds however, that in spite of the above, a potential independent Scottish government would not be powerless

10 See the present author's review of this work in: [Bober 2013].

as it could, for example, decide what spending priorities are the most suitable for its economic interests [McCrone, p. 53].

The above-considered conceptualizations of sovereignty mostly concentrate upon its external dimension (especially in the field of economics). Other academics partaking in the debate, however, tend to be focused on the internal aspect of sovereignty, and especially the tension between popular sovereignty and the sovereignty of parliament.[11]

Colin Kidd discusses extensively the question of sovereignty (and the sovereign) in three of his recent works [Kidd 2012, Kidd 2013, Kidd 2014]. He is especially focused on the differences between the understanding of this concept in Scotland and England (the English understanding is incorporated into British-wide constitutionalism). The Scots adhere to the concept of popular sovereignty. This understanding of sovereignty, and the different constitutional tradition is commonly, though not uncontestedly (in Kidd's words such an assumption is a 'delusion'), traced back to the Declaration of Arbroath (1320[12]).[13] It was later confirmed especially in the Claim of Right for Scotland

11 As it was already mentioned in footnote 6 this tension is observed also by other British scholars from the field of constitutional law. Besides V. Bogdanor one can mention in this respect for example: [Keating 2009; King 2007; Mitchell 2009; Tomkins 2009].

12 The Declaration of Arbroath was a petition submitted to the Pope John XXII in 1320, during the Wars of Scottish Independence. In it the Scottish nobles (on behalf of the wider community) argued that Scotland was an ancient and independent nation and thus it should not be ruled by the kings of England. What is of particular importance for the present discussion, is that it is often interpreted as an early expression of the popular sovereignty, as the king was supposed to be bound by certain demands of the people (in this case the basic element of such a contractual consent was the preservation of the independent Scottish statehood). The nobles make it clear that if the king subjugates Scotland to an outside ruler, they will be entitled to "[d]rive him out as our enemy and a subverter of his own right and ours, and make some other man who was well able to defend us our King." Full bilingual text of the Declaration of Arbroath is available at the web page of the National Archives of Scotland at <http://www.nas.gov.uk/downloads/declarationArbroath.pdf> (accessed 26.11.2014). Its interpretations are discussed in [Ichijo 2004, pp. 27-31, 122-124].

13 It is important to note that Kidd convincingly argues that such a perception of sovereignty (and the sovereign) in Scotland does not always imply republicanism among the supporters of Scottish independence.

(1988[14]), but also earlier in the judgment by Lord President of the Court, Lord Cooper in 1953 [Kidd 2013]. Simultaneously, as Kidd observes, "The British constitution still rests on a kind of modified Diceyan theory of parliamentary supremac[y]" [Kidd 2012]. The reconciliation between these two contradictory concepts of sovereignty is, in Kidd's opinion, the biggest challenge facing British constitutionalism. His proposal to resolve this Union-threatening dilemma is based upon the quasi-federal reform of the upper chamber of the British parliament (House of Lords), as it should acquire a role similar to the upper chambers in the federal states. In consequence, such a "British Bundesrat" would curtail the unlimited sovereignty of the parliament as it would not only protect regional interests, but as well accommodate the Scottish understanding of sovereignty and the sovereign [Kidd 2014].

The aforementioned tension between the contradictory understandings of to whom sovereignty belongs (in other words: who is sovereign), constitutes also the axis of Jim Gallagher's considerations on the future of the British constitutional system [Gallagher 2014]. He argues that the very fact of holding a legally binding independence referendum in Scotland, implies that there is a recognition that the Scottish people are sovereign (the formal basis for this was the Edinburgh Agreement of 2012). Only the sovereign Scottish people (or Scottish nation) were capable of deciding if Scotland was going to stay in the Union or continue as an independent state. For Gallagher such a recognition is inconsistent with the present British constitutional framework. In his opinion the most straightforward way to amend current defective model, would be:

a) formalization of the British constitution;
b) recognition in such a written constitution that the Union is a voluntary one, formed by various peoples (nations);
c) recognition that devolved institutions are permanent and a constitutionally recognized expression of the sovereign wills of the peoples (nations) of the United Kingdom;
d) separate parliamentary procedure regarding laws applying to England only;
e) "federalization" of the House of Lords.

14 The context and significance of The Claim of Right for Scotland (1988) is skillfully explained in: [Bogdanor 2009, p. 117].

Such a particular kind of updated/reformed 'territorial constitution' would better reflect the true nature of the United Kingdom with its various sovereigns.

In turn, Linda Colley – noticing relatively similar problems – speaks openly about a revised and updated more federal Britain, based upon a written constitution and with power devolved to four national parliaments (English one included) and to local and regional authorities. The new constitution would not only "[e]ntrench and communicate citizen rights and the workings of a devolved political system," but also "[m]ight supply some fresh constitutive stories for a new kind of Union" [Colley 2014, kindle].

By contrast, W. Elliot Bulmer [Bulmer 2014] proposes a model of a constitution for an independent Scottish state, in which the question of sovereignty/sovereign is also distinctly prominent. One of the basic principles of the proposed constitution is the sovereignty of the Scottish people. In Bulmer's words, the potential new Scottish democracy "[i]mplies the rule over the people (as subject) by the people (as sovereign)" [Bulmer 2014, p. 27]. Independence is therefore only the first, however necessary, step towards the achievement of Scottish democracy, based upon values shared by the Scottish sovereign people and codified into a written constitution. Such supreme law of the new state could be made and amended only by the sovereign [Bulmer 2014, p. 83]. Bulmer's proposals obviously constitute a radical departure from the current British model. He is also of the opinion that in spite of certain international obligations, an independent Scotland would have enough leeway to pursue the values and aims expressed in its constitution like social justice, solidarity etc. [Bulmer 2011, p. 55].

The debate regarding the concept of sovereignty (and sovereign) among academics was certainly multi-faceted and lively. It is rather generally assumed that in the contemporary world of dense globalization that sovereignty is all the more relativized. Nevertheless, sovereignty is perceived as still being relevant. It is stressed that the factual state's capacity to act internally and externally, depends on the quality of its politics, society, democracy, planning etc. States (not necessarily the biggest or the most powerful) that are more successful in such respects usually use their sovereignty more effectively in the globalized world. Hence, internal and external sovereignty

are closely intertwined. The sovereignty debate has also lead to the calls for the reform of the British constitutional system as the understanding of sovereignty and to whom it belongs in England and nations with devolved parliaments is different (the staging of the referendum confirmed that the Scottish people are the sovereign). The new constitution should reconcile such tensions, what may lead to the establishment of a single polity, with various sovereign subjects (literally shared sovereignty). If it is going to be the case, such a polity would noticeably differ from classic federal states, with the people as the sovereign.

THE REALM OF POLITICS

It cannot be surprising that the way in which the concept of sovereignty had been discussed in the Scottish political milieu, was heavily influenced by the standpoint that specific political parties or politicians took in regard to the independence. Hence, the most positive conceptualizations of sovereignty and independence were presented by the Scottish National Party (SNP), the Scottish Green Party (SGP), the Radical Independence Campaign (RIC) and the left-wing politician Jim Sillars (a former Labour MP and a former deputy leader of the SNP). On the opposite end of the spectrum the Scottish Labour Party and the former British prime minister Gordon Brown could be placed.[15]

15 The consideration of the Scottish Labour Party (it is the section of the UK-wide Labour Party operating in Scotland) as the sole anti-independence political party in the present article is justified by the two circumstances. First, it is, alongside the SNP, the most important political force in the Scottish political system. Second, as it was a member of the Better Together referendum campaign, its message – especially in the field of sovereignty – was to a considerable extent similar to the messages of the Scottish Conservatives and the Scottish Liberal Democrats. A reader interested in their detailed analysis is encouraged to read the recent articles by D. Torrance [2014b] and M. Harvey [2014]. It should also be remembered that just two days before the referendum, the leaders of the three main British political parties i.e. David Cameron, Nick Clegg and Ed Miliband signed a pledge promising to bring more powers to the parliament in Edinburgh if Scottish voters rejected independence. The result of this 'vow' are the proposals for a cross-party

As Kevin Adamson and Peter Lynch [Adamson, Lynch 2014] convincingly argue, the SNP in its discourse before and during the referendum campaign presented a consistently positive conceptualization of sovereignty and independence, as both concepts were associated with such signifiers as (among others): fairness, wealth, potential, vision, healthy, better, economic development, a stable economy or strong public services. Therefore, it is obvious that sovereignty is necessary in order to achieve the Scotland described by those signifiers, as it will eliminate various obstacles which at present stand in the way of achieving such ends. This reasoning is clearly based on the assumption that even in an interdependent world, sovereignty involves enough internal as well as external possibilities to achieve the desired aims [Adamson, Lynch 2014, p. 52]. The SNP was also very clear on the subject of the sovereign. In its white paper on independence, the Scottish people were described as sovereign and thus having right to choose freely the form of government, preferred policies etc. [Scotland's Future 2013, p. 548].

In his insightful article *The Political Thought of Scottish Nationalism* historian Ben Jackson [Jackson 2014] attempts to grasp the influences which have lead towards the above-discussed contemporary understanding of sovereignty among the members and possibly the supporters of the SNP. His analysis confirms that among the Scottish nationalist elite a very modern understanding of sovereignty is omnipresent. Due to the influential (also beyond Scotland) works authored by the academic and SNP politician Neil MacCormick, and his concept of a 'post-sovereign state', the nationalists were able to present their case for an independent state not as an isolationist one, but instead as internationalist in its essence.[16] It was (and remains) a well-argued attempt at the harmonious placing of self-governing Scotland (internal sovereignty) in various international bodies, as co-operation is required because of globalization (external sovereignty). The most prominent international organization of this kind would be the European Union. Hence, the pooling of certain competences on the supranational level would not eliminate the meaningful leeway in

Commission chaired by Lord Smith (presented on November 27th, 2014) and containing mostly extended tax powers.

16 One of MacCormick's works on sovereignty is quoted in footnote 4.

internal matters. In this kind of reasoning sovereignty is relativized, but it does not became irrelevant. Otherwise, it would be pointless to argue for independence. What Jackson notices, however, is a certain tension in this coherent theoretical argumentation post-2012. In order to win support for independence in the referendum, the nationalists concentrated on preserving some of the key intra-British ties (the monarchy, the pound etc.). Such compromising political tactics have made it more difficult to convincingly argue for independence, as the possible change and its consequences would have been less noticeable than was previously suggested.

An even more positive interpretation of sovereignty is noticeable in the referendum discourse adopted by minor Scottish political forces supporting independence. For the SGP achieving sovereignty was understood as an opportunity to advance towards more fundamental change, cantered upon three main subjects [Gillen 2014, pp. 134-141]. First of them, localism (independence should bring more competences to the local councils and communities) touches upon internal sovereignty and is not problematic. The other two, however, – i.e., the new economy and welfare and the environment (here global cooperation on tackling climate change is often mentioned) – presuppose a rather wide range of possibilities gained with independence. The proposal of a certain kind of 'Green Deal', which would move Scotland towards an environmentally-friendly economy, and ambitious plans to rebuild the welfare-state (as it is necessary to counter such trends of growing inequality, for instance) prove that in the view of the SGP sovereignty certainly has not lost its relevance in the interdependent world of the 21st century.

The grassroots organization the RIC built its referendum message on an equally positive notion of independence. It perceived the recuperation of sovereignty as the first step towards a radically remodelled socialist Scotland. The premises of this vision are comprehensively explained in the essay *Yes. The Radical Case for Scottish Independence* [Foley, Ramand 2014] and, among other questions, it contains: the active role of an independent Scotland's government in shifting the economy towards an environmentally-friendly model; nationalization of North Sea oil (the resources thus gathered should finance the above-mentioned 'green' shift in the economy) and of the key infrastructure (railways, for instance); supporting of the Tobin

Tax on a global scale; the separation of investment and commercial banking; free childcare; elimination of the VAT tax [Foley and Ramand 2014, p. 110-117]. As the authors state, their "[p]roposals go beyond the so-called 'Nordic Model'(…)" [Foley, Ramand 2014, p. 110]; hence, they supposedly assume an even more optimistic interpretation of sovereignty than that, for example, earlier discussed by Keating and Harvey. At the same time, they propose an internationalist agenda, which should aim at the support of and cooperation with global partners sharing the same vision of future society and economy.

Also Jim Sillars formulates an unequivocally positive understanding of the concept of sovereignty [Sillars 2014]. He argues that in the contemporary world sovereignty has its limitations, but this ascertainment does not mean that political or economic renewal is impossible [Sillars 2014, pp. 23-24]. For Sillars, in spite of such limitations, change can still be profound – he argues that independence could lead to a socialist Scotland. At the same time, however, he makes an important qualification – it would have to be 'sensible socialism', as the interdependent nature of the contemporary world cannot be ignored [Sillars 2014, p. 16]. Nevertheless, due to certain farsighted strategic decisions, independent Scotland could broaden the scope of its sovereign actions. An example of this would be a membership in the European Free Trade Association (EFTA) instead of membership in the European Union (EU), which in Sillars' view is much more burdensome [Sillars 2014, pp. 89-90]. He does not have any doubts as to whom sovereignty should belong to: the Scottish people. This matter should be conclusively decided in a written constitution [Sillars 2014, p. 71].

It is understandable that the concept of sovereignty is interpreted in a different manner by those who were willing to preserve the Union. Hence, the main Scottish political forces and political figures opposing independence stressed the risks and uncertainties, in their opinion, associated with the regaining of independence. The Scottish Labour Party in its message associated sovereignty with various threats: it would lead to the disruption of a stable and also lucrative UK-wide internal market; it could damage the personal finances of the Scots (possible tax increases and lower pensions were especially emphasized); also the regaining of sovereignty would be pointless if

an independent Scotland would share the pound with the rest of the UK [Shaw 2014, pp. 64-66]. Independence was described as a risky gamble – perilous, reckless, and unpredictable [Shaw 2014, p. 67].

A similar tone was noticeable in Gordon Brown's views on independence, as in his opinion only by pooling its resources with its British neighbours, can Scotland successfully cope with globalization. In an interdependent world, he argues, Scottish sovereignty would signify an irresponsible marching against the tide and propose a 19th century answer to 21st century challenges. In Brown's view what is needed are not risks stemming from the sovereignty, but UK-wide pooling of resources, sharing and solidarity [Brown 2014, pp. 4-7]. It is important to bear in mind that Brown is not a supporter of the current constitutional status quo. The Union, in order to be successful, must profoundly change and sensibly combine unity and diversity, i.e. a UK-wide coordination with a parallel national, regional and local empowerment. His project of "The New Britain" (it is not a federation as the asymmetry caused by England's size is too significant) consists of the following elements. First, its purpose – focused upon securing dignity for all the citizens (hence it is described as the Union's ethical justification) – needs to be renewed and codified. Second, there is a pressing need for a written constitution, fully recognizing the Scottish Parliament and thus ending the fiction of Westminster's parliamentary sovereignty. Third, the revenue-rising capacity of the Scottish Parliament should be enhanced. Fourth, decentralization strengthening local government is needed. And finally, fifth, a reformed House of Lords should serve as a forum in which a UK-wide consensus and cooperation is sought [Brown 2014, pp. 233-263].

Brown's remarks make it clear, that not only academics were exploring the aforementioned tension between popular sovereignty (sovereignties) and the sovereignty of parliament. This subject was also of particular interest for Henry McLeish (retired Scottish Labour Party politician; former MP, MSP and the First Minister of Scotland).[17]

17 It should be noted that also a Welsh Conservative Party member of the National Assembly for Wales, David Melding, has questioned the 'absolutist' British theory of the sovereignty of the parliament. In his vision of a federal Britain, the parliaments of the British nations (e.g. Scottish) would have sovereign authority over their domestic affairs. Hence, in a specific British situation (differing from Canadian, American or Spanish), a division of

In his book *Rethinking Our Politics. The Political and Constitutional Future of Scotland and the UK* [McLeish 2014] McLeish incessantly argues – in a language somewhat different from the one used by Gallagher or Kidd – that the Union is in a constitutional crisis (among others), which needs to be quickly overcome if it is to be preserved. In his words

> [t]here has to be a written, codified constitution in the UK which captures how we are governed, offers protection and safeguards for freedoms and rights of citizens and provides access in the form of a single, accessible and easily understood document. The absolute sovereignty of Westminster no longer exists in any form, except in the minds of MPs and in the institution itself. The broader Union requires this be dropped to ensure the other nations are offered some protection from the influence of England and Westminster; devolved power is retained power, instead we need to share power [McLeish 2014, kindle].[18]

The content of the political debate on the concept of sovereignty was dependent on the position a given political subject had with regard to the referendum. Supporters of independence understandably formulated positive interpretations of sovereignty (sovereignty is relevant as it constitutes a possibility for a thorough change; during the referendum campaign the SNP's stance on this was somehow compromised for tactical reasons), on the other hand their opponents were obviously sceptical, stressing the dangers and uncertainties of external sovereignty/independence (because of the tensions related with internal sovereignty often they were also arguing for the reform of the British constitution). Political visions of a sovereign Scotland were for obvious reasons usually more bold (sometimes even radical), than among the academics. They were never isolationist, however, as the awareness of the necessity of international cooperation was often mentioned. The influence of the academic conceptualizations

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sovereignty is not only feasible but necessary too [Melding 2013, kindle]. Those tensions are explored in his earlier work on this subject too [Melding 2009, pp. 197-227].

18 Various tensions within the Union are also discussed by McLeish in his earlier writings, for example in: [McLeish 2012, pp. 86-96, 240-248].

of sovereignty on the political discourse was noticeable, especially in the case of the SNP.

THE REALM OF OPINION

The concept of sovereignty was also actively debated among the representatives of the final category which is going to be considered in the present article. This group, like the ones already considered above (but especially the second), also can be divided into sovereignty optimists and pessimists. In the first category the present author includes for example such authors as Gerry Hassan and Lesley Riddoch. The representative of the second group is David Torrance. The opening question in this debate could be formulated as: "[h]ow independent can any country, apart from the largest, be from the huge and fast-moving global forces of twenty-first-century capitalism?" [Marr 2013, p. 21].

G. Hassan [Hassan 2014] formulates his understanding of the concept of sovereignty most fully in his recent book *Caledonian Dreaming. The Quest for a Different Scotland* [Hassan 2014]. Even at first glance, its title suggests that the author perceives not only the potential regaining of sovereignty and independence, but also a lively debate regarding these questions, as a chance for a profound change of Scottish social, political and economic reality (and not only a mere formal constitutional reform). It is a chance for the 'Third Scotland' to speak up and pursue its reformist agenda, inspired by a 'new kind of idealism' [Hassan 2014, p. 225]. This 'Third Scotland' differs from the two Scotlands personified by the Labour Party (progressive but with weak chances for orchestrating a UK-wide social-democratic reforms) and the SNP (in its essence conservative and thus offering continuity, equalling stagnation). It is based on various grassroots organizations and initiatives, which perceive sovereignty as a means to achieve a renewed Scotland, built by the sovereign Scottish people upon a set of values, which could be described as radically social-democratic [Hassan 2014, pp. 202-203, 219]. As Hassan himself states, in the 21st century the absolute sovereignty is unachievable [Hassan 2014, p. 201]. Nevertheless, the empowered Scottish sovereign (through democratization, participation, decentralization etc.), would be able to decide not only

about the internal policies, but also about the external matters (e.g., shall membership of the EU be continued, as it could be damaging for Scottish progressive aspirations? Shall closer ties with Nordic countries be forged as an independent Scotland would be pursuing policies which are to some extent similar to theirs?). In light of the above, it is clear that for Hassan sovereignty remains a vital concept.

It could be argued that to a certain extent Lesley Riddoch [Riddoch 2013] shares Hassan's intuitions. After registering various deficiencies of contemporary Scotland (among others: inequality, the lack of political participation, health, housing), she elaborates upon her belief that independence cannot be an end in itself. Without the empowerment of the Scottish people (which will also be necessary in the event of a 'no' majority), which in turn should lead to the reinvigoration of the weak Scottish democracy, no change would be possible [Riddoch 2013, p. 308]. Riddoch, as an enthusiastic admirer of the achievements of the Nordic Countries, believes that Scotland could follow the similar path (hence, the assumption that independence and sovereignty are relevant, is legitimate also in her case), but the aforementioned condition is absolutely a prerequisite in order to achieve this, as in this way only a combination of social and civic factors typical for these countries can be emulated [Riddoch 2013, pp. 303-306].

For George Kerevan on the other hand, sovereignty in the 21st century is not a meaningless concept, but the chance to pursue the path of a 'small state globalization', so successful in the case of the Nordic countries, Switzerland and Luxemburg [Kerevan 2013, p. 153]. Sovereignty "[w]ould give Scotland increased diplomatic and economic manoeuvrability" [Kerevan 2013, p. 152], but certainly an intelligent long-term strategy is required, to effectively use the flexibility which enables the smaller European countries not to lose, but broaden the scope of their sovereignty. Kerevan also notices that active and creative engagement in various international bodies, may actually increase the potential for Scottish sovereignty instead of limiting it [Kerevan 2013, p. 158].

Writer and journalist Iain Macwhirter (political commentator for the independence supporting The Sunday Herald) also believes that small sovereign states can successfully cope with an apparently hostile and standardized world of dense globalization. In his opinion

> There is evidence that the smaller, social democratic countries – Finland, Denmark or Norway – where wealth differentials have been kept within limits, have coped with financial turbulence rather better than the larger neoliberal "Anglo-Saxon" countries like the UK. Certainly, they have been less prone to boom and bust. (…) This is because they tend to have greater social solidarity, flatter class divisions, and their businesses are more flexible [Macwhirter 2013, p. 283].

Macwhirter is aware that it is not a straightforward task to follow the Nordic path, but his assessment of the economic assets of a potentially independent Scotland, seems to convince him that Scotland's economic baseline would constitute a strong basis for such an attempt [Macwhirter 2013, pp. 284-288].

David Torrance in turn could be classified as a sovereignty sceptic, both when it comes to its external and internal dimensions. In the first respect Torrance, in his book *The Battle for Britain. Scotland and the Independence Referendum*, asks if sovereignty is a meaningful at all concept in the world ravaged by the post 2007-2008 economic crisis [Torrance 2013, p. 335]. In his opinion, sovereignty can be achieved, but rather in an academic than in a factual sense. His argument is reinforced by the questions about potential membership in the EU or in the currency union with the rest of the United Kingdom: membership of these organisations would be a serious challenge for those who claim that sovereignty will be regained as its limitations would be obvious. A clear scepticism is also noticeable in Torrance's attitude towards its internal aspect as he describes sovereignty as a not "terribly helpful" [Torrance 2014a, p. 34] concept, when it comes to the analysis of the distribution and a legitimization of power in a given polity. A certain ambiguity in the understanding of the concept of internal sovereignty has possibly contributed to Torrance's (himself a declared federalist) somewhat debatable mention of the "three sovereign entities" in the United States' political system: the federal government, states and the American Indian communities [Torrance 2013, p. 52; Torrance 2014a, p. 34].

The considered leaders of opinion generally (the exception is D. Torrance) perceive sovereignty as relevant in an interdependent world and is not a feature of the only the larger states. They perceive it as not being absolute, however. Usually the potential for substantive change is associated with the concept of sovereignty.

However, certain preconditions are indicated as necessary for the achievement of this potential: civic engagement, decentralization, dialogue, farsighted planning etc. International cooperation is perceived as a means for ensuring and broadening state's capacities.

CONCLUSIONS

The analysis undertaken above has lead to the following conclusions:

1. In spite of some dissenting opinions, in every group, and in the peculiarities of every single conceptualization of sovereignty considered, there is a noticeable dominant interpretation of this concept among the studied authors (the differences between the groups are not significant). Sovereignty is generally perceived as relevant in the interdependent 21st century world. The external pressures and the need for cooperation/pooling of competences (international obligations) are acknowledged. At the same time, however, states remain sovereign and they are capable of shaping their internal and external policies. Their capacity to act externally remains significant and is closely related with the quality of its internal institutions, policies, strategic planning etc. Hence, the internal and external dimensions of sovereignty are closely related – adequate actions in the first sphere, combined with a perceptive international policy, can expand the scope of the possibilities in the second.
2. Moreover, the closely related concept of the sovereign has been discussed. It is generally accepted that the holder of sovereignty, especially in the Scottish case, is the Scottish nation. This assumption leads to calls for the reform of the British unwritten constitution, which should reconcile the existence of various sovereign nations in the United Kingdom with the sovereignty of parliament (it cannot be excluded that such an attempt may even lead to the abolition of this somewhat weakened rule in the future, in the case of formal federalization of the United Kingdom). Such a reform could potentially guide the British political system also towards the alternative option: the establishment of an original and

formalized political system (single polity) in which various sovereigns would be functioning simultaneously (a middle ground between the federal and confederal models).

Further research related to the questions discussed in the present article shall concentrate upon the two issues:

1. A comparative analysis of the sovereignty discourses (the Scottish one contrasted with the sovereignty/independence discourses in Catalonia, Flanders, Quebec etc.).
2. A comparative analysis of the distribution of sovereignty in the multinational states.

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