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SOVEREIGNTY, VIOLENCE, AND INJUSTICE: AN EXAMINATION OF THE NATION-STATE AS THE BASIS OF THE GLOBAL WORLD ORDER

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ABSTRAK

Gagasan tradisional tentang kedaulatan terdiri dari gagasan tentang kekuasaan absolut dan tak terpisahkan yang dimiliki oleh negara yang memungkinkannya mengatur urusannya sendiri, mencapai tujuan yang menjadi dasar pembentukannya, dan menjaga integritasnya sendiri. Namun, saat ini, kemenangan globalisasi ekonomi dan independensi produksi dan pertukaran kapitalis dari kendali politik telah berkontribusi pada apa yang dianggap sebagai kemunduran negara-bangsa. Pertanyaannya ialah: ”Bagaimana mungkin kita dapat sampai pada tatanan kosmopolitan, yaitu sebuah tatanan di mana ada damai dan persekutuan antar bangsa?” Menggunakan penelitian kepustakaan dengan metode deskriptif, tulisan ini bertujuan membahas konsep kedaulatan sebagaimana yang dijalankan oleh negara-bangsa. Tulisan menjelaskan bahwa kekerasan merupakan elemen konstitutif penting dari kedaulatan.

ABSTRACT

The traditional notion of sovereignty consists of the idea of an absolute, indivisible power possessed by the state enabling it to regulate its own affairs, achieve the purposes for which it was created and to safeguard its own integrity. Today, however, the triumph of economic globalization and the independence of capitalist production and exchange from political control have contributed to what is perceived as the *decline of the nation-state*. The question is: “How would it still be possible to arrive at a cosmopolitan order, i.e., an order where there is peace and unity among nations?” Using a literature study with a descriptive method, this paper aims to describe the concept of sovereignty as it is exercised by nation-states. This paper argues that violence is an essential constitutive element of sovereignty.

INTRODUCTION

The traditional notion of sovereignty consists of the idea of an absolute, indivisible power possessed by the state enabling it to regulate its own affairs, achieve the purposes for which it was created and to safeguard its own integrity. Because of its absolute power, the state holds a monopoly of the exercise of legitimate force so that it can eliminate any threat, both inside and outside, that aims to destroy the safety and existence of the nation. Today, however, the triumph of economic globalization and the independence of capitalist production and exchange from political control have contributed to what is perceived as the *decline of the nation-state*.[1] Though multi-faceted, one of its most significant consequences of this decline concerned itself with the power of national sovereignty. Nation-states no longer have complete control over the forces of economic production—money, technology, people, and raw materials—that they can no longer be thought of as complete and sovereign authorities. There is therefore a struggle from within the nation-state to redefine its sovereignty over the manifold forces with which it interacts.

In this regard, this paper will be concerned with the concept of sovereignty as it is exercised by nation-states. Sovereignty has always been understood as the basis on which a state can act with legitimate force within its own territory. It is also the basis by which a state relates to other states and the reason why one state cannot and should not interfere in the affairs of another.[2] This identification of sovereignty with absolute power and legitimate force, however, "tends to appropriate for itself, and precisely through threat, a monopoly on violence."[3] In this sense, while sovereignty serves as the nation-state's claim for the legitimate exercise of power, it also constitutes the object and source of fear that serves, in the political tradition from Hobbes to Schmitt to Benjamin, as the "very condition of the authority of law and the sovereign exercise of power, the very condition of the political and the state."[4] This legal monopoly on violence by the state, needless to say, is and has become the source of many injustices not only within nation-states but also transgressions that happen in the relations between states.

We need not go far to see how our present Philippine government has historically tried to silence, in one way or another, many of its critics under the guise of protecting

[1] Michael Hardt and Antonio Negri, *Empire* (Cambridge, Harvard University Press, 2000), xi.

[2] This principle is known in international law as the "Principle of the Sovereign Equality of All States." Every nation-state must recognize that other states have an "an equal entitlement and respect within their own borders." From this mutual recognition, states should grant "each other rights of jurisdiction in their respective territories and communities," i.e., each state is in sole possession of rights to "jurisdiction over a particular people and territory." (David Held, "Democracy: From City-States to a Cosmopolitan Order?" in *Global Justice: Seminal Essays* (St. Paul: Paragon House, 2008), 327.

[3] See Walter Benjamin, "Critique of Violence," in *Reflections,* trans. Edmund Jephcott (Schocken Books, 1978), 277-300. Cited in Giovanna Borradori, *Philosophy in a Time of* Terror (Chicago: University of Chicago Press, 2003), 102.

[4] Borradori, *Philosophy in a Time of Terror*, 102

national security; or to see the hand of many government officials and military officers in the gruesome and despicable massacre of poor suspected people during the Duterte War on Drugs and many other recent events, to realize the dangers that can happen to individual citizens under the power of the state. Historically, the mass murders ordered by Joseph Stalin in Russia, Mao Tse Tung in China, and Adolf Hitler,[5] and even the extrajudicial killings encouraged during the martial law era by the recent Hague resident Rodrigo Duterte in the Philippines, are extreme illustrations of the violence that can happen if the power of the state is turned into an instrument of cruelty and injustice.

Given this connection between sovereignty, violence and injustice, this paper argues that: **violence is an essential constitutive element of sovereignty.** What we mean by "essential constitutive element" in this context is the idea that violence *lies* or *is at the very basis* of the institution of sovereignty, indeed, of *violence as a necessary condition for the establishment of sovereignty*. The institution of sovereignty is what coincides with the founding moment of the nation-state and what grants legitimacy to its legal system and the use of force that is necessarily connected with it. Sovereignty is the fundamental power of the state and the forms in which this power is exercised (police power, taxation and eminent domain) are valid only in reference to itself.[6] As the basis for the nation-state's legitimate exercise of power, sovereignty is an indispensable condition in order for the state to continue existing. Without it, no state can exist and be called as such.

METHOD

This paper undertakes a textual analysis of the idea of sovereignty and the concept of the nation-state, both taken as products of modernity. Following Michael Hardt and Antonio Negri's brilliant genealogical analysis of sovereignty in their famous book *Empire*, we illustrate how this concept developed within the context of a violence that is inherent in modernity itself. From this, we will consider how the idea of sovereignty is translated into the language of the modern nation-state and reflected on the violence implied by the concepts of sovereignty and the nation-state as they can become forms or mechanisms of injustice.

Our guiding idea in this work is the contention that the founding gesture which established the law and the nation-state is always already implicated in a form of violence. For this reason, within the context of the search for a global world order, this modern conception of sovereignty and the nation-state present serious problems to the demands for a peaceful cosmopolitan order.

[5] Loius Pojman, *Global Political Philosophy*, (Boston: McGraw-Hill, 2003), 216.

[6] In the Philippine Constitution, these three powers of the state have as their counterpart and limiting principle in the "Bill of Rights" to safeguard the rights of the individual. See Isagani Cruz, *Constitutional Law* (Quezon City: Central, 2000).

If the nation is founded on violence but is primarily concerned with its integrity and the exercise of its own sovereign power, if it prioritizes the principles of its own state-formation and political self-determination over those of others, how would it still be possible to arrive at a cosmopolitan order, i.e., an order where there is peace and unity among nations?

The study will conclude with a discussion of the concepts of tolerance and hospitality as possible answers to the demand for freedom, equality, openness and justice by what is "other" to the nation. In this regard, we will employ Jacques Derrida's deconstruction of the concept of tolerance and forgiveness so as to arrive at a theoretical solution to problem of sovereignty and the nation-state within the context of the global world order

The Crisis of Modernity and the Passage of Sovereignty

In *Empire,* Hardt and Negri set out to discuss the genealogy of the concept of the sovereignty by identifying its historical development with the evolution of European modernity itself. Modernity is characterized by its search for independence from the past and commitment to the political emancipatory promise of rationality. It developed under the notion that human beings themselves are the masters of their own destiny and their mastery can be achieved by a "secularizing process that denied divine and transcendent authority over worldly affairs."[7] Through this separation between the religious and the secular, the "affirmation of the powers of this world [and] the discovery of the plane of immanence" became clear as the primary event of modernity. As such, humanity "discovered its power in the world and integrated this dignity into a new consciousness of reason and potentiality."[8] Such discovery is what led to the refoundation of authority "on the basis of a human universal and through the action of a multitude of singularities was accomplished with great force."[9]

Such radical revolutionary character of modernity whereby the old order is toppled, however, was not without opposition. Within modernity lies a counterrevolution which, since it could not "return to the past nor destroy the new forces, sought to dominate and expropriate the force of the emerging movements and dynamics."[10] In this counterrevolutionary mode of modernity, the new image of humanity has to be re-appropriated to a transcendent plane so that a "transcendent constituted power" for order can be posed against the "immanent constituted power" of desire.

In this struggle for hegemony, the "transcendent forces of order" emerged as the victor. Since it was not possible to go back to the old ways of the past, a "reestablishment

[7] Hardt and Negri, *Empire*, 71
[8] Hardt and Negri, *Empire*, 71
[9] Hardt and Negri, *Empire*, 72.
[10] Hardt and Negri, *Empire*, 74.

of the ideologies of command and authority" must be done by "playing on the anxiety and fear of the masses, [and] their desire to reduce the uncertainty of life and to increase [its] security."[11] This was done in order to create a fragile peace which did not ultimately settle the revolution. Instead, the conflict was assumed into modernity itself. "*Modernity itself is defined by crisis*, a crisis that is born out of the uninterrupted conflict between the immanent, constructive, creative forces and the transcendent power aimed at restoring order."[12]

This conflict within is the key to understanding modernity itself. However, it was a conflict that was effectively checked and dominated. This can be illustrated in the way the Catholic Church instituted the counterreformation so as to ferociously contain the different cultural and religious revolutions. Outside Europe, however, with the discovery of the Americas and the other lands, the consolidation of the ideals of modernity became possible within Europe's outside. This means that the humanist ideals of equality, singularity, community, multitude and cooperation can be extended horizontally across the globe. Yet, the same counter revolutionary system that sought to control the subversive forces within modernity also saw in these discoveries the possibility of dominating other cultures. To this extent, we can see that this continual struggle between the subversive and the counterrevolutionary forces is what effectively defined modernity as crisis. This continual dominance, however, of the counterrevolutionary forces gives the concept of European modernity its evidently hegemonic character.[13]

In order to resolve this crisis, the idea of immanence central to the subversive revolutionary forces must be effectively dominated "by constructing a transcendental apparatus capable of disciplining a multitude of formally free subjects."[14] In this case, mediation is necessary to avoid a direct and immediate relationship between the multitude and the divinity. The multitude must never be understood as the ethical producer of life and the world. For this reason, mediation in the form of "weak transcendence" must be introduced so as to "relativize experience and abolish every instance of the immediate and absolute in human life and history."[15] This relativity is necessary because "[e]very movement of self-constitution of the multitude must yield to a preconstituted order, and because claiming that humans could immediately establish their freedom in being would be a subversive delirium."[16]

The transcendental apparatus has its first strategic accomplishment in Rene Descartes' positing of reason as the exclusive terrain between God and the world. In positing this "centrality of thought in the transcendental function of mediation," a

[11] Hardt and Negri, *Empire*, 75.
[12] Hardt and Negri, *Empire*, 76.
[13] See Hardt and Negri, *Empire*, 77-9.
[14] Hardt and Negri, *Empire*, 78.
[15] Hardt and Negri, *Empire*, 79.
[16] Hardt and Negri, *Empire*, 79.

residual of divine transcendence is defined. Hence, this divine transcendent element or God is "the guarantee that transcendental rule is inscribed in consciousness as necessary, universal and thus preconstituted."[17] With this positing of the transcendental apparatus, we situate ourselves at the beginning of European Enlightenment and of bourgeois ideology. The emphasis on thought made the transcendental apparatus as the exclusive horizon of ideology. Every concept formation—science, politics, techniques for profit and the pacification for social antagonism—and historically specific developments must ultimately refer to this apparatus.

With the work of Immanuel Kant, the subject is posed at the center of the metaphysical horizon but is still controlled by "the emptying of experience in phenomena, the reduction of knowledge to intellectual mediation, and the neutralization of ethical action in the schematism of reason." Kant hypostasized the mediation started by Descartes in a "pseudo-ontological critique—in an ordering function of the consciousness and an indistinct appetite of the will."[18] In Kant therefore, the discovery of the subject put humanity at the center of the universe. However, it is not a humanity that is constituted through art and action but one which is "lost in experience, deluded in the pursuit of the ethical ideal."[19] With this,

> Kant throws us back into the crisis of modernity with full awareness when he poses the discovery of the subject itself as crisis, but this crisis is made into an apology of the transcendental as the unique and exclusive horizon of knowledge and action.[20]

This constitutive function of Kant's transcendental critique was transformed by Hegel into a violent, "solid ontological figure."[21] In this, Hegel claimed that "the liberation of humanity could only be a function of its domination" and hence, "the immanent goal of the multitude is transformed into the necessary and transcendent power of the state."[22] In such a way, Hegel indeed restores the horizon of immanence but subsumes everything under the dialectical unfolding of the divine order. In this way, however, the potentiality immanent in the multitude is denied, blocked, controlled and hegemonized by the finality of the dialectical process. What Hegel actually restores then is a blind immanence that is coming to its end at the conclusion of the process of modernity. Therefore, in this sense, "[M]odernity was complete and there is no possibility of going beyond it." In order to arrive at this completion, it was necessary

[17] Hardt and Negri, *Empire*, 79.
[18] Hardt and Negri, *Empire*, 81.
[19] Hardt and Negri, *Empire*, 81.
[20] Hardt and Negri, *Empire*, 81.
[21] Hardt and Negri, *Empire*, 81.
[22] Hardt and Negri, *Empire*, 82.

that a "further and definitive act of violence define the scene:"[23] the crisis of modernity was to be pacified only through the domination of the state.

From this short background, we can now see that the problem of politics is what lies at the center of modernity. In this regard, we have glimpsed into the transcendental apparatus as the means for imposing "order on the multitude" and to prevent them from autonomously and spontaneously organizing themselves. Such apparatus must maintain control over the social forces of production both in Europe and its colonial outside so as to continually exert influence over the production of a new humanity. The transcendental apparatus must therefore acquire a political character as the "most adequate response to the revolutionary forms of immanence."[24]

In this regard, Thomas Hobbes's idea of a "God on earth" serves a "foundational role in the modern construction of the transcendent political apparatus."[25] His idea of the sovereign as the ultimate and absolute holder of power is the progenitor of our modern idea of sovereignty. Hobbes' idea stems from the realization that men, who live in the fictional[26] state of nature, must enter into an *implied* social contract with other men so that they can protect their lives from the dangers of war and generalized conflict. To live within the order of the social contract is better than to live in the state of nature where life is "nasty, brutish and short." Hence, they must put their power in a leader who has the absolute right to do everything in the society "except to take away the means of survival and reproduction." Through the social contract, prior to all social action and choice, "the autonomous power of the multitude is transferred to the sovereign power that stands above and rules it."[27]

In this case, we can see that sovereignty is defined both by *transcendence* and *representation*. Individuals decide to make the sovereign power an absolute one because they count on the sovereign to *represent* their will. At the same time, however, such logic of absolute power is what alienates the multitude from the sovereign. The sovereign power is *transcendent* over the multitude and is capable of "giving laws to their subjects with their consent."[28] Here, we see that the logic behind the contract of association is also the same logic that animates the contract of subjugation. In such a way, the concept of modern sovereignty in its pure and absolute form was expressed in

[23] Hardt and Negri, *Empire*, 83.

[24] Hardt and Negri, *Empire,* 83.

[25] Hardt and Negri, *Empire,* 83.

[26] The "state of nature" is not a historical event which we can locate in history. Rather it is an assumption upon which we base the idea of the social contract. It is therefore not right to treat it and criticize it as if it is an event that actually happened. For an example of such misguided criticism, see Martha Nussbaum, "Beyond the Social Contract: Capabilities and Global Justice," *Oxford Development Studies* 32, no. 1 (March 2004).

[27] Nussbaum, "Beyond the Social Contract," 84.

[28] See Jean Bodin, *On Sovereignty*, trans. Julian Franklin (Cambridge: Cambridge University Press, 1992), 23.

the thought of Hobbes. It represents the "first political solution to the problem of modernity."[29]

In a similar vein, Jean Jacques Rousseau thought of the social contract as the agreement among individual wills that must be developed and sublimated in the construction of the general will. This general will can only proceed when there is the alienation of individual wills from the sovereignty of the state.[30] Here, we can see that both Rousseau and Hobbes conceived of the sovereign in terms of a single, transcendent power. Sovereignty is one; it is indivisible. Therefore, it must reside only in one sovereign entity and this entity must possess power absolutely, thus effectively alienating in principle, any kind of sharing of this power.

In order to complete this picture of modern sovereignty, we must also take into account how this concept is sustained and constituted through a parallel process—the development of capital. Sovereignty, as absolute power of the state, must take into account the forces of social and economic production so that European modernity can achieve "a hegemonic position on the world scale."[31] Sovereignty and capitalism cannot be separated in European modernity, acting as *form* and *content*, respectively, in effecting the synthesis of politics and economics. To this extent, the aim of the sovereign state is to ultimately "make the well-being of the individual coincide with the public interest, reducing all social functions and laboring activities to one measure of value."[32] In this way, "modern European sovereignty is capitalist sovereignty, a form of command that overdetermines the relationship between individuality and universality as function of the development of capital."[33]

Given the full synthesis of sovereignty and capital, it now becomes possible to conceive of sovereignty as a transcendental power, "a political machine that rules across the entire society."[34] It is through the power of sovereignty by which the multitude is transformed into an ordered totality. Here, it becomes possible for us to distinguish between modern sovereignty from those of ancient regimes. Hardt and Negri explains:

> In addition to being a political power against all external political powers, a state against all other states, sovereignty is also a police power. It must continually and extensively accomplish the miracle of the subsumption of regularities in the totality, of the will of all into the general will.[35]

[29] Hardt and Negri, *Empire*, 84.

[30] See Jean-Jacques Rousseau, *On the Social Contract* in *The Collected Writings of Rousseau*, edited by Roger Master and Christopher Kelly (New Hampshire: University Press of New England, 1994), 138.

[31] Hardt and Negri, *Empire*, 86.

[32] Hardt and Negri, *Empire*, 86.

[33] Hardt and Negri, *Empire*, 87.

[34] Hardt and Negri, *Empire*, 87.

[35] Hardt and Negri, *Empire*, 87-88.

There is then now in modern sovereignty the element of bureaucracy as necessary organ for the functioning of the transcendental apparatus. Such bureaucracy is important for the operation of the apparatuses that "combines legality and organizational efficiency, title and the exercise of power, politics and the state." Through such administration, it becomes possible to invert the relation between "society and power, between the multitude and the sovereign state" so that now "power and the state produce society."[36] This is a passage *within* sovereignty from the "traditional transcendence of command" to the "transcendence of ordering function."[37]

Within its very structure therefore, it becomes easy to see why, given the above discussion, the element of violence is structurally located at the origins of modern sovereignty. This can be seen when we consider that within the very notion of sovereignty lies the moment of alienation, when the multitude, the individual subjects of the state, must give their consent to the power that constitutes the sovereign. This power, seen to be absolute and indivisible, has the monopoly of control over the individuals in any kind of modern society.

Following Hobbes, this alienation of all the rights of the individual in favor of the sovereignty of the state is what gives the state the power to do whatever it wants with the individual, even up to the point where the individual can be totalized himself. To this extent, we can see that the state's monopoly of threat and violence based on its sovereignty can be a possible cause for injustice. If the sovereignty of the state is based on a founding moment that is itself alienating, then we can say that the root of social injustices lies also in the very institutional processes that shape these very structures. At this point, we will now proceed to see how this institution of modern sovereignty has also shaped the nature of the modern nation-state. This will clarify to us the sense in which violence is not only present within sovereignty but also within the founding moment of the nation-state.

The Sovereignty of the Nation-State

Hardt and Negri claims that the concept of the nation in Europe "developed on the terrain of the patrimonial state."[38] In feudal society, everything was owned by the monarch who exercise control not only over all his property but also with regard to the rule of social relations and the relations of productions. Even religion was the sovereign's property for it was subordinated to his territorial control. Because of this absolute possession of power, the sovereign monarch is the guarantee of peace and stability and his power is what guarantees the passage to the new order. With the advent of modernity however, the patrimonial and absolutist state was transformed gradually

[36] Hardt and Negri, *Empire*, 88. Foucault refers to this transition as the passage from the paradigm of sovereignty to that of governmentality.

[37] Hardt and Negri, *Empire*.

[38] Hardt and Negri, *Empire*, 93.

when the identity of the nation no longer focused on the territory (or the figurative divine body) of the king and the population living in it but on the spiritual identity of the nation.[39] This transcendent essence of the nation is now perceived in terms of national identity which is seen as "… a cultural, integrating identity, founded on a biological continuity of blood relations, a spatial continuity of territory, and linguistic commonality.[40]

While the process preserved the "materiality of the relationship to the sovereign," the patrimonial horizon was transformed into a national horizon; the feudal subject became a citizen, thus highlighting the shift from a passive to an active role. "The nation is "an active force, as a generative form of social and political relations."[41] This active creation by a community of citizens of the nation imply that nation is often experienced as a "collective imagining" or what Benedict Anderson calls as "imagined communities"[42] or for Max Weber as "imagined commonalities."[43] Here, what is important to note is that the concept of the nation and the national state has *reified* the concept of sovereignty in the most rigid way such that every residue of social antagonism is left out.

> The nation is a kind of an ideological shortcut that attempts to free the concepts of sovereignty and modernity from the antagonism and crisis that defines them. National sovereignty suspends the conflictual origins of modernity (when they are not definitely destroyed), and it closes the alternative paths within modernity that had refused to concede their powers to state authority.[44]

In this way, the transformation of modern sovereignty into national sovereignty constitutes an advance or a perfection of the concept of sovereignty. With this transformation, a new equilibrium has to be established between "the processes of capitalist accumulation and the [new] structures of power."[45] Such transformation however, resulted to the political victory of the bourgeoisie and to the domination of the processes of accumulation (of capital) by certain classes. Where this leads us then, is that in the process of constructing the nation, the crisis of modernity—between the multitude and the power that seeks to dominate them—is not really resolved or pacified

[39] Hardt and Negri, *Empire*, 94-95.
[40] Hardt and Negri, *Empire*, 95.
[41] Hardt and Negri, *Empire*.
[42] Benedict Anderson, *Imagined Communities: Reflections on the Origin and Spread of Nationalism,* revised edition (Pasig City: Anvil Publishing Inc., 2003), 5-7.
[43] See Thomas McCarthy, "On Reconciling Cosmopolitan Unity and National Diversity," in *Global Justice and Transnational Politics* (Cambridge: MIT Press, 2002), 235-274; 237.
[44] Hardt and Negri, *Empire*, 95-96.
[45] Hardt and Negri, *Empire*, 96.

in the concept of the nation much like that in the concept of sovereignty or state.[46] The nation merely masked, displaced or deferred the crisis.

Along this line, Jean Bodin's masterwork[47] frankly articulates very well his answer to the crisis of modernity. For him, sovereignty cannot be produced if we hold on to "a contractualist or a natural right framework." Rather,

> … the origin of political power and the definition of sovereignty consist in the victory of one side over another, a victory that makes the one sovereign and the other subject. *Force and violence created the sovereign.*[48]

From this force and violence comes the *plenitudo potestatis*—the plenitude and unity of power—essential to modern sovereignty and to the nation-state. Bodin therefore presents to us an idea of the sovereign nation that articulates its own sense of legitimation from the very processes that constructed it. Violence then, is what lies as the legitimating force at the founding moment of the nation-state.

It is within the nation-state however, where the concept of national sovereignty emerged in its completed form. In the wake of the trauma of the French Revolution, the concept of the nation came to be considered as a "constructive political concept," i.e., a concept that can be used as a "real political weapon."[49] This means that the concept of the nation can be appropriated for specific revolutionary activities. This is not really surprising given the fact that the ideals of the Enlightenment contain in themselves much revolutionary potential. However, in this regard, the concept of the nation was linked to the concept of the bourgeoisie when its origin was traced back to the humanist ideals of the Enlightenment. Such link apparently takes away the concept of the nation from the systems of subjugation and domination and moves it along the side of a democratic idea of community.

However, this solution was really nothing more than a turn of the screw, "an extension of the subjugation and domination that the modern concept of sovereignty has carried with it from the beginning."[50] This is because the effort to ground sovereignty on the nation as a popular and revolutionary ideal only solidifies the power of sovereignty by mystifying its basis. Hence, the very structure of violence that lies at the heart of modern sovereignty was not really eliminated or resolved within the concept of the nation. On the contrary, the nation-state served to solidify it by hiding it within the semblance of what is "natural and originary."[51]

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[46] Hardt and Negri, *Empire*, 97.

[47] See Jean Bodin, *Six Books of the Commonwealth*, translated by M.J. Tooley (Oxford: Blackwell, 1955).

[48] Hardt and Negri, *Empire*, 98. Italics supplied.

[49] Hardt and Negri, *Empire*, 101.

[50] Hardt and Negri, *Empire*, 102.

[51] Hardt and Negri, *Empire*.

Thus far, we can see that the bourgeois formulation of national sovereignty

> … surpassed by far all the previous formulations of modern sovereignty. It consolidated a particular and hegemonic image of modern sovereignty, the image of the victory of the bourgeoisie, which is then both historicized and universalized.[52]

As such, the concept of the nation is what finally seals the identification of a people with the "spiritual identity" that effectively brings them together. What facilitates this concrete identification between the people and the nation is that "there is a territory embedded with cultural meanings, a shared history and a linguistic community." At the same time, there is also "the consolidation of a class victory, a stable market, the potential for economic expansion, and new spaces to invest and civilize."[53]

From the above, we can see that the process by which the nation-state is constructed is basically underlined by the very process that institutes the sovereign. Both concepts, i.e., sovereignty and the nation-state, are underlined by a necessary force and violence which guarantees their own legitimation. From here, we can then now proceed to see how this violence is transformed into the totalitarianism of the state.

The Totalitarianism of the Nation-State

From the vantage point of modernity, the concept of the nation-state then is never a pure and sacrosanct reality. On the contrary, the crisis of modernity that gave rise to it embedded it with elements that precisely gave it a necessarily hegemonic or totalizing character. For this reason, while it can serve as an instrument for political self-determination, the nation remains to be a fragile instrument in carrying out the emancipatory and revolutionary ideals of the enlightenment.

Many philosophers have in fact criticized the concept of the nation-state because of the violence and totalitarian tendencies inherent in it. To mention only a few, Rosa Luxemburg argued against it because for her, "the nation meant dictatorship and is thus profoundly incompatible with any attempt at a democratic organization." She recognized that "national sovereignty and national mythologies effectively usurp the terrain of democratic organization by renewing the powers of territorial sovereignty and modernizing its project through the mobilization of an active community."[54] Jean Genet, for his part, recognized that the institution of sovereignty will remove the progressive

[52] Hardt and Negri, *Empire*, 105.

[53] Hardt and Negri, *Empire*.

[54] Hardt and Negri, *Empire*, 97. See Rosa Luxemburg, "Nationalism and the National Question," in *The National Question*, 1909, Marxists.org, accessed July 5, 2025, https://www.marxists.org/archive/luxemburg/ 1909/national-question/ch05.htm.

and revolutionary character of the nation.[55] "With national "liberation" and the construction of the nation-state, all of the oppressive functions of modern sovereignty inevitably blossom in full force."[56] Albert Einstein even called nationalism as "the measles of mankind."[57]

Within our present concern, the nation state must be considered as a function of the institution of sovereignty. However, we ask: did it finally manage to resolve the crisis of power in modernity, i.e., was the practice of sovereign power in the nation-state able to move away from the relations of subjugation and domination that defined it from the start?

It is true that the modern concept of the nation-state has realized the emancipatory ideals of equality, freedom and self-determination up to some extent. This can be seen in the revolutionary struggles that defined the end of the nineteenth and early twentieth centuries that led to the independence of many nations in colonial Asia, Africa and Southern America. The Philippine struggle for independence is a concrete example of this. The concept of the nation-state and the sovereignty *residing* in it is what gives Filipinos the natural right to self-determination free from the colonial domination of the Spaniards and the Americans. However, within the very same process by which they become a nation lies a totalizing tendency which tend to appropriate to itself the monopoly of power.

If we would take a brief excursion into the conduct of the Philippine Revolution (1896), we can see that it was primarily controlled and executed by the *Ilustrados* who are composed mostly by the bourgeoisie class. There was also the other revolution by the proletariat led by Andres Bonifacio but it was effectively disregarded by his execution under the orders of then leader of the revolution General Emilio Aguinaldo. Nick Joaquin in fact describes these two rebellions that "could not be more unlike each other. One (Bonifacio's) was plebeian, instinctive and in vain; the other (Aguinaldo's), bourgeois, sophisticated and effective."[58] As subsequent Philippine history has shown, Aguinaldo went on to become the President of the First Philippine Republic and effectively replaced the Spanish colonizers with the bourgeoisie class composed by the

[55] In the context of revolution of the Black Panthers and the Palestinians he said: "The day when the Palestinians are institutionalized, I will no longer be at their side. The day the Palestinians become a nation like any other nations, I will no longer be there." Jean Genet, "Interview with Wischenbart," in *Oeuvres Complétes*, vol. 6 (Paris: Gallimard, 1991), 282. Cited in Hardt and Negri, *Empire*, 435.

[56] Hardt and Negri, *Empire*, 109.

[57] Hermann Dukas and Banesh Hoffmann, *Albert Einstein: The Human Side* (Princeton: Princeton University Press, 1979), quoted in Louis P. Pojman, *Global Political Philosophy*, 194; see also Albert Einstein, "What Life Means to Einstein," interview by George Sylvester Viereck, *The Saturday Evening Post*, October 26, 1929.

[58] Nick Joaquin, "Why Fell the Supremo?," quoted in Bienvenido Lumbera, *Writing the Nation/Pag-akda ng Bansa*, (Quezon City: U.P. Press, 2000), 39.

Ilustrados themselves, thus negatively answering Rizal's prophetic question: "why independence if the slaves of today will be the tyrants of tomorrow?"[59]

The above example shows that the struggle by which the nation-state is founded is a dangerous moment for it can lead to totalitarian tendencies not only because of the selfish political ambitions of those in power or those who will be in power, but most especially because the very structure of the nation and the modern conception of sovereignty contains such tendency. From such tendency, the totalitarianism of the state has led to countless gruesome events in the course of human history. To mention only one example, when nationalism went hand in hand with socialism in Hitler's Germany, we have seen the most barbaric things possible when the power of the state is taken as absolute within the nation. The transformation of modern sovereignty into national sovereignty has led to the construction of a terror machine unparalleled yet in human history (except probably by Stalin's extermination projects in the former USSR).[60]

From this perspective, the solidification of sovereignty in the nation *may* lead to nationalism viewed as another "prejudicial ideology."[61] In this sense, the totalitarianism of the nation becomes "the organic foundation and the unified source of the society and the state."[62] Given the emphasis on an originary notion of people as the nation's founding myth, the concept of the nation "poses an identity that homogenizes and purifies the image of the population" while blocking the existence of differences within the multitude.[63] This results in turn, to the processes of exclusion that effectively marginalizes what is "other," or what is called the "stranger" to the nation.

To this extent, we can see that in order for the nation to effectively constitute itself as such, it must rely on a discriminatory process that defines its inside from what is its outside. The nation must determine those groups of people who have the right to "imagine" it. In so doing, it must effectively set itself against from those which should not be included in the nation. To set again another example from Philippine history, the *Filipinization* process must effectively determine those which must be included in the concept of the "Filipino" so that the granting of equal rights to Christianized natives by Spain must be realized. For this reason, the non-Christian natives must be excluded from the process. This conscious arbitrary process of exclusion was so effectively clear that Graciano Lopez-Jaena and other *Ilustradoes* were enraged when the Spaniards were not able to distinguish between Filipinos and what is not Filipinos (the natives shown like animals) during the Madrid Exposition of 1887: "Why do these Spaniards not comprehend that "Chinese, Chinks, blacks and Igorots" [we can also include the Moros,

[59] See Jose Rizal, *El Filibusterismo* (Manila: Nueva Era Press, 1950).
[60] See Pojman, *Global Political Philosophy*, 216-217.
[61] Pojman, Global Political Philosophy, 201.
[62] Hardt and Negri, *Empire*¸ 113.
[63] Hardt and Negri, *Empire*.

Ifugaos and other mountain tribes] are not Filipinos?"[64] The process of exclusion and marginalization therefore lies at the heart of the effective construction of the identity of the nation. Together with the institution of sovereignty in the modern nation, this totalizing process constitutes the act of violence that is inherent in the concept of the nation-state.

If the nation is founded on violence but is primarily concerned with its integrity and the exercise of its own sovereign power, if it prioritizes the principles of its own state-formation and political self-determination over those of others, how would it still be possible to arrive at a cosmopolitan order, i.e., an order where there is peace and unity among nations?

CONCLUSION

If the nation is founded on violence but is primarily concerned with its integrity and the exercise of its own sovereign power, if it prioritizes the principles of its own state-formation and political self-determination over those of others, how would it still be possible to arrive at a cosmopolitan order, i.e., an order where there is peace and unity among nations? Answering this question, this study will conclude with a discussion of the concepts of tolerance and hospitality. Together, these two concepts are alternatives that "open up" the nation-state out of its own totalizing, exclusivist and marginalizing tendency to treat the other with violence.

Tolerance and Hospitality

To start with, it is necessary to distinguish the violence inherent within the nation-state and the outside violence which stems from the nation-state's relationship with its outside. To reiterate, the founding moment of the nation-state is considered violent on two counts: first is because the institution of sovereignty is itself a violent process (given the alienation of individual wills in favor of the sovereign will that wields absolute and ultimate power); and together with the first, is the process of totalizing exclusion and marginalization in order to define its inside against what is its outside. The occurrence of essential violence, both within and the outside of the nation is therefore unavoidable. When we apply this in the context of international relations, tolerance and hospitality acquire very interesting implications.

The concept of tolerance must be understood within the context of the Enlightenment when against the background of religious intolerance and persecution,[65]

[64] Graciano Lopez Jaena, *Diskursos y Artículos Varios (Selected Speeches and Articles)*, with notes and commentaries by Jaime C. Veyra (Manila: Bureau of Printing, 1951), 171, quoted in Filomeno Aguilar, "Tracing Origins: Ilustrado Nationalism and the Racial Science of Migration Waves," in *The Journal of Asian Studies* 64, no. 3, (August 2005), 605-37; 620.

[65] To give some examples of intolerance: anathema, excommunication, censorship, marginalization, distortion, control, programming, expulsion, exile, imprisonment, hostage taking, death threats, execution and assassination. (Borradori, *Philosophy in a Time of* Terror, 125).

tolerance became a safeguard for the individual's continued existence within the society. In this context, tolerance is a Christian virtue, and especially a Catholic virtue.[66] Derrida explains that since religious claims are at the heart of violence, "tolerance' means that 'Muslims agree to live with Jews and Christians, that Jews agree to live Muslims, that believers agree to tolerate 'infidels' or 'nonbelievers.'"[67]

As a result of this tolerance, "peace would therefore be a tolerant cohabitation."[68] However, while Derrida recognizes that tolerance is useful as the façade for a non-violent recognition of other, he expresses certain reservations about the use of the term. He says:

> Though I clearly prefer shows of tolerance to shows of intolerance, I nevertheless still have certain reservations about the word "tolerance" and the discourse it organizes. It is a discourse with religious roots; it is most often used on the side of those with power, always as a kind of condescending concession.[69]

For Derrida then, tolerance is a virtue that emphasizes the power of the strong. Even if it is understood as a form of charity, tolerance cannot yet escape the fact that it situated within a certain discourse of power that emphasizes the priority of the strong. He further explains:

> Tolerance is always on the right side of the "reason of the strongest," where "might is right"; it is a supplementary mark of sovereignty, the good face of sovereignty, which says to other from its elevated position, I am letting you be, you are not insufferable, I am leaving you a place in my home, but do not forget that this is my home…[70]

Tolerance can therefore be viewed as the effect of the desire to maintain power or in another sense, as a form of "deferred" violence. Since one tolerates another on account of one's decision not to be hostile to the other, there is still reservation with regard to the welcoming of the other. Since there is still reservation, violence still lies dormant at the heart of one who is tolerant. Tolerance is always limited and it is this sense that Derrida would like to go against with. He illustrates this problem by citing the case in France when the expression "threshold of tolerance" is used to "describe the limit when it was no longer decent to ask a national community to welcome any more foreigners, immigrant workers and the like."[71] Such threshold was interpreted as leading to a natural phenomenon of rejection which implies that the experience of tolerance

[66] Borradori, *Philosophy in a Time of* Terror, 126.
[67] Borradori, *Philosophy in a Time of* Terror, 127.
[68] Borradori, *Philosophy in a Time of* Terror, 127.
[69] Borradori, *Philosophy in a Time of Terror*, 127.
[70] Borradori, *Philosophy in a Time of Terror*, 127.
[71] Borradori, *Philosophy in a Time of Terror*, 128.

must eventually encounter a limit. In this sense, tolerance is therefore dependent on the sovereign power of the nation-state and its decision of its leaders to be tolerant.

For this reason, Derrida attempts to go beyond the concept of tolerance by introducing the concept of hospitality. Tolerance is acceptance of what is other, the foreigner only up to certain point. In this sense, it is a "conditional, circumspect, careful hospitality." This tolerance remains

> … a scrutinized hospitality, always under surveillance, parsimonious and protective of its sovereignty. in the best of cases, It's what I would call a conditional hospitality, the one that is most commonly practice by individuals, families, cities, or states. We offer hospitality only on the condition that the other follow our rules, our way of life, even our language, our culture, our political system and so on.[72]

It is this kind of limited hospitality as tolerance, the one which he calls as the hospitality of *invitation* that gives rise to "regulated practices, laws, and conventional on a national and international … scale."[73] From this account, however, Derrida attempts to go beyond such limited hospitality by suggesting a pure and unconditional hospitality which he calls as the hospitality of *visitation.* This hospitality is

> one which opens or is in advance open to someone who is neither expected nor invited, to whomever arrives as an absolutely foreign *visitor*, as a new *arrival,* nonidentifiable and unforeseeable, in short, wholly other.[74]

This idea of pure and unconditional hospitality is of course dangerous (because it is life-threatening) and "practically impossible to live" since "one cannot in any case and by definition, organize it." It is a concept that cannot have any legal or political status. "No state can write it into their laws."[75] However, Derrida reminds us that without this thought of pure hospitality,

> … we would have no concept of hospitality in general and would not even be able to determine the rules for conditional hospitality (with its rituals, its legal status, its norms, its national or international conventions), we would not even have the idea of the other, of the alterity of the other, that is, of someone who enters our lives without

[72] Borradori, *Philosophy in a Time of Terror*, 127.

[73] Borradori, *Philosophy in a Time of Terror*, 127. Kant formulated this principle of hospitality thus: "the right of a foreigner not to be treated with hostility because he has arrived on the land of another." See Immanuel Kant, "The Third Definitive Article for Perpetual Peace" in *Perpetual Peace* in Immanuel Kant, *Practical Philosophy* (The Cambridge Edition of the Works of Immanuel Kant in Translation), translated and edited by Mary J. Gregor (Cambridge: Cambridge University Press, 1996), 317-351; 328-9.

[74] Borradori, *Philosophy in a Time of Terror*, 128-129.

[75] Borradori, *Philosophy in a Time of Terror*, 129.

> even being invited. We would not even have the idea of love or of "living together (*vivre ensemble*)" with the other in a way that is not a part of some totality or "ensemble."[76]

This unconditional hospitality is neither political nor juridical but is itself the "condition of the political and the juridical" and even the ethical, for "what would an "ethics" be without hospitality?"[77] Further, he adds that this unconditional hospitality is "transcendent" with regard to the three orders mentioned above. In order to be effective, however, Derrida says that this unconditional hospitality must be made concrete, as something determinate. The unconditional must be re-inscribed to certain conditions if it is to achieve anything. It is in the tension between conditional and unconditional hospitality where concrete responsibilities can take place. Derrida explains: "Political, juridical, and ethical responsibilities have their place, if they take place, only in this transaction—which is each time unique, like an event—between these two hospitalities, the unconditional and the conditional."[78]

Towards Cosmopolitan Peace

To this extent, we can see that Derrida suggests a line of thought that opens up a concrete avenue by which the nation-state can accommodate within its system those which are outside of it. In this case, the concept of hospitality suggests a novel line of approach to our relationship with the other, which in this case, is the foreigner or the stranger. On this notion, it becomes possible to ground the relationship between nation-states towards the achievement of cosmopolitan peace.

To re-orient the discussion, it may be recalled that we have repeatedly emphasized the idea that violence is what lies at the inception of the modern concept of sovereignty. This violence is in turn found in the founding moment of the state which corresponds at the same time to the moment of the institution of sovereignty. Since violence underlines both the nation-state and its exercise of sovereignty, we have concluded that the roots of injustice in the society and the world are found in the processes that shaped these structures. Violence, in short, is inescapable. Since violence is inescapable, every act of the state or the sovereign must essentially contain in themselves the element of subjugation and domination which eventually leads to injustice (in one way or another).

Given the above, we see that the initial state in which we can find the relationship between states is one of war and generalized conflict. This state of nature, as Hobbes and other social contract theorists would have it, is the starting point for any discussion of a global world or cosmopolitan order. The case of "war of all against all" pits one nation-state against all the others in a never-ending struggle for self-aggrandizement.

[76] Borradori, *Philosophy in a Time of Terror*, 129.
[77] Kant, "The Third Definitive Article for Perpetual Peace".
[78] Kant, "The Third Definitive Article for Perpetual Peace," 130

Nation-states are therefore essentially involved in a relationship of violence against one another, tending towards what Samuel Huntington identifies as the "clash of civilizations."[79]

If we therefore take the nation-state as the basis for the global world order, then we would be inheriting a problem that lies at the very heart of modernity, i.e., the problem of constituting political power such that its ordering and disciplinary functions do not appear as modes of subjugation and domination. At the same time, we will need to concern ourselves with how to reconcile nationalism with its emphasis on the "principles of state-formation and political self-determination," with the cosmopolitan ideals of liberalism and vice versa.[80]

In dealing with this issue, Derrida takes up Kant's idea of cosmopolitanism as his point of departure. For Kant, the problem of cosmopolitanism consists of reconciling his universalistic aspirations with the diversity of national cultures. He considers that the conflicts among peoples are all part of the historical dynamics of cultural progress. Yet, they also bring hostility and war. For this reason, men must "gradually move towards greater agreement over their principles" so that the diversity of peoples "will lead to mutual understanding and peace."[81]

The cosmopolitan order is possible when nations, in a manner analogous to the individuals in the state of nature, "abandon a lawless state of savagery and enter into federation of peoples in which every state, even the smallest, could derive its security and right … from a united power and the law-governed decisions of a united will."[82] At this global level, natural rivalries and antagonisms are constrained by a rule of law deriving from a united will and backed by a united power.

However, Kant does not advocate a world government or the rule of a single ruler (for that would lead to a universal despotism) but only a "*league of nations*, which, however, need not be a state of nations."[83] In this league, nation-states voluntarily join themselves and submit themselves to a public coercive law which would serve to regulate the relations between the states themselves, "among individuals who are citizens of the different states, and among individuals and states of which they are not citizens."[84]

For Kant, it is only this type of global law which would enable states to emerge out of the state of nature and in which rights and possessions can acquire a "conclusive character" (and not merely a "provisional" one) and thus become a true condition of

[79] Samuel Huntington, "The Clash of Civilizations?" in *Foreign Affairs* 72:3 (1993), 22.

[80] See McCarthy, "On Reconciling Cosmopolitan Unity and National Diversity," 235-6.

[81] McCarthy, "On Reconciling Cosmopolitan Unity and National Diversity," 244.

[82] Immanuel Kant, "The Idea for a Universal History with a Cosmopolitan Purpose," translated by H.B. Nisbet, in *Kant: Political Writings*, edited by H. Reiss (Cambridge: Cambridge University Press, 1991), 41-53; 47.

[83] Kant, *Perpetual Peace*, 326.

[84] McCarthy, "On Reconciling Cosmopolitan Unity and National Diversity," 247.

peace. Ultimately, however, "Kant concedes that in the given circumstances global public law is unachievable."[85]

Nation-states are obviously not willing to give up their absolute and unlimited sovereignty and there is great difficulty in administering politically the vast territory of the world. Because of this he also recognizes that "the idea of a global civil unity amidst national cultural diversity is unachievable or unworkable."[86] At most, it is an idea that can be approached or approximated. However, he still gives the "workable" but "weak idea" of a "voluntary, revocable league or federation of nations with the sole purpose of preserving the peace."[87]

Along this vein, Derrida attempts to go beyond Kant's idea through his idea of responsibility that goes beyond the limits of the nation-state and the subjugation and domination by modern sovereignty. He does agree with Kant's idea of a world citizenship which would be an important condition for approaching perpetual peace. However, he emphasizes that what he is aiming at is a "democracy to come" that goes beyond the limits of cosmopolitanism or world citizenship.[88] This "democracy to come" is

> … more in line with what lets singular beings (anyone) "live together," there where they are not yet defined by citizenship, that is, by their condition as lawful "subjects" in a state or legitimate members of a nation-state or even of a confederation or world-state. It would involve an alliance that goes beyond the "political" as it has been commonly defined.[89]

Derrida therefore searches for that space that is beyond politics, and thus beyond the reach of the domination of sovereignty and the modern nation-state. Like Kant, he wants to arrive at an understanding of citizenship that is not limited by the hegemonic workings of particular nation-states. However, he does not advocate a "depoliticization" or an abandonment of our political categories. In fact, he mentions that in many contexts, "the state might be the best protection against certain forces and dangers."[90] Rather, what Derrida wants to do is to rethink the concept of the "political" by a deconstruction of the concept of modern sovereignty. In this regard, Derrida attempts to go beyond the idea of power or force inseparable from the idea of the law vis-à-vis with its conflict with the individual freedom of the person (autonomy). For him, it is only when we arrive at a concept of irreducible and singular responsibility "without any

[85] McCarthy, "On Reconciling Cosmopolitan Unity and National Diversity," 247.
[86] McCarthy, "On Reconciling Cosmopolitan Unity and National Diversity," 248.
[87] McCarthy, "On Reconciling Cosmopolitan Unity and National Diversity," 248.
[88] Borradori, *Philosophy in a Time of* Terror, 130.
[89] Borradori, *Philosophy in a Time of* Terror, 130.
[90] Borradori, *Philosophy in a Time of* Terror, 131.

normative program and without any assured knowledge" that lets us welcome the other as other, and hence be able to fulfill the demands of personal autonomy.[91]

For this reason, Derrida insists on the importance of the universality of human rights which means that they are no longer limited or valid only within a specific state legal system. The questioning of state sovereignty is done for the purpose of removing those responsible for war crimes from the protection of their own national judicial institutions so that primacy of universal human rights may be given more force. This view of human rights as universal accords them the status of cosmopolitan rights that should serve as an ideal "that can be best pursued by continually having it face its limits."[92]

By consistently seeking a space beyond cosmopolitanism, over and above the workings of sovereignty, politics, and jurisdiction, Derrida is trying to articulate a notion of justice that is beyond the boundaries of law and cosmopolitanism. Justice is not the law and can never be limited to what the law is. This is because justice goes beyond the use of force whereas law is essentially defined by enforceability and thus of a violence that is latent in this force.

> Applicability, "enforceability" is not an exterior or secondary possibility that may or may not be added as a supplement to law. It is the force essentially implied in the very concept of *justice as law* (droit), of justice as it becomes *droit*, of the law as "*droit*" (for I want to insist right away on reserving the possibility of a justice, indeed of a law that not only exceeds or contradicts "law" (*droit*) but also, perhaps, has no relation to the law, or maintains such a strange relation to it that it may just as well command the "*droit*" that excludes it). The word enforceability reminds us that there is no such thing as law (*droit*) that doesn't imply *in itself*, *a priori*, *in the analytic structure of its concept*, the possibility of being "enforced," applied by force.[93]

It is this justice beyond the law that gives the law its impetus to be always on the way for a greater appropriation of justice. "Justice" Derrida says, "is what gives us the impulse, the drive or the movement to improve the law, that is, to deconstruct the law. Without the call for justice we would not have any interest in deconstructing the law."[94] Thus, law and justice belong to two different dimensions, which are not, of course, unrelated. Law is a socio-political construction that is "finite, relative and historically grounded." On the other hand, justice "transcends the sphere of social negotiation and

[91] Borradori, *Philosophy in a Time of* Terror, 132.
[92] Borradori, *Philosophy in a Time of* Terror, 163.
[93] Jacques Derrida, "Force of Law: The Mystical Foundation of Authority," in *Deconstruction and the Possibility of Justice*, ed. Drucilla Cornell, et. al. (New York: Routledge, 1992), 5-6.
[94] John Caputo, *Deconstruction in a Nutshell* (New York: Fordham University Press, 1997), 16.

political deliberation, which makes it infinite and absolute." Justice therefore remains as politics' inexhaustible demand.[95] Law and politics must therefore always look upon justice as that which is to come (*a venir*). This is because the legitimacy of the legal order cannot be offered except in retrospect, i.e., force and violence are what is present at the founding moment of the law and justice only comes afterwards as its justification.

In this sense, Derrida's view of hospitality and justice beyond the bounds of the legal system invites us to "a concept of responsibility that exceeds the self-legislation of the free-will."[96] This means that our experience of responsibility must be a radical, unconditional responsibility, "without which, … there can be no ethics and morality."[97] By insisting that justice is to come and beyond the law, Derrida is leading us to the idea that justice is something that goes beyond calculation. He argues further: "But this does not mean that we should not calculate. We have to calculate as rigorously as possible. But there is a point or limit beyond which calculation must fail, and we must recognize that."[98]

Justice then is never found in the present order, is never present to itself, is never gathered unto itself. Justice is rather the relation to the other, the dis-juncture that opens up the space for the incoming of the other. In this sense, we can say that the search for cosmopolitan justice and peace is something that can never be achieved given the presently existing social and political structures. However, this does not mean that these structures can or should be removed, or we should entirely abandon the cosmopolitan project, for these are impossible. To say that justice is beyond the law does not mean to discredit it and the institutions that stem from it. Rather, to go beyond the law, duty, tolerance, limited hospitality, and so on, means that we recognize the limitations of the current socio-political system and if we are to act justly and responsibly, we cannot simply limit ourselves to the choices presented to us by the present structures

In the context of our search for a global world order, this concretely means that the concept of sovereignty and the nation-state must not be taken as absolute points of reference for the establishment of the world order. With the decline of both these concepts, it becomes possible to think of a cosmopolitan citizenship that should owe no absolute allegiance to any one country but one that values absolute respect for human life and the avenues by which such life may be made more human. In this aspect, we can say that the traditional categories of sovereignty, nation-states, and international law, do not entirely outlive their usefulness, or even their necessity. Rather, these traditional categories must be re-thought in such a way that the concern for plurality and diversity in the world is responsibly attuned with the right of nation-states or peoples for security and self-determination. In this case, the insistence of the absolute character

[95] Borradori, *Philosophy in a Time of Terror*, 164.
[96] Borradori, *Philosophy in a Time of Terror*, 168.
[97] Borradori, *Philosophy in a Time of Terror*, 168.
[98] Caputo, *Deconstruction in a Nutshell*, 19.

and necessity of human rights is one important factor in the realization of cosmopolitan cooperation.

On this account, the idea of cosmopolitan peace remains a dream. Yet, it is a dream that enables us to be aware of a more primordial and essential responsibility for the other that lies beyond our own instinctual and nationalist egoisms. To this extent, however, we have found a possible avenue which the crisis of power set by modernity may be addressed if not entirely overcome: to see political power not as an absolute means on the part of the strong but for the achievement of justice and the enacting of one's infinite responsibility for the other. Further, by way of a more concrete suggestion, modern cosmopolitanism under a global rule of law may be possible if the cultural differences in the world are allowed to exist as equally legitimate and desirable forms of life (or in the manner of Foucault' ethical subjectivities)[99] other than those suggested by the West. In this case, cosmopolitanism must provide better avenues by which those who are marginalized may be able to make their voices heard. This is after all the aim of all true justice. This is the one avenue that cosmopolitanism may take if it is to be our ethical demand[100]—the demand for the liberal values of freedom, equality, and justice.

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[99] See Michel Foucault, *Politics, Philosophy, Culture: Interviews and Other Writings 1977-1984*, ed. Lawrence D. Kritzman (London: Routledge, 1988), 451.

[100] See Pojman's conclusion in "Cosmopolitanism, Nationalism, and World Government," in *Global Political Philosophy*, 212-213.

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