



## Are we moving beyond Montevideo Convention on the rights and Duties of States 1933?

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**ABSTRACT:-** The world is in another era, is in a time when people of different nations are linked together without them having to cross the border, they do not need a passport or visa to enter another country. Under the era of globalization, people can traders and other things via computer networks, they buy and sell, they will pay taxes on goods coming or when she needs. Currently undergoing graduate students at universities around the world without even lifting one point going into college campus, people in our days are reading through campus computers for distance learning.

As Professor Randall Baker said on his paper Challenges to traditional concepts of sovereignty; It is almost impossible to believe that the last decade has seen the explosion of the Internet and the birth (1993) and rise of the Worldwide Web—it simply was not there. Already it has shaped the way we communicate shop and file our taxes. And yet, unlike any of its predecessors, it is almost totally anarchic—or democratic if you prefer. There are no press barons to control it and railroad us into the Spanish-American War—there is the ultimate democracy of being able to put your point of view before the court of the world, instantly.

Sovereignty in the internet age. One of the aspects of globalization that seems to spell the death of sovereign control of territory is the worldwide web. On this basis there is no reason for this generation no longer closed and the land criteria to be recognized because of the resolution of Montevideo convention in 1933. Resolution that has no force, it cannot work in our own day, the world needs to set new Terms of countries recognized sovereign state.

### I. LITERATURE REVIEW

#### Three Schools Of Thought in International Relations

My paper question is that; Are we moving beyond Montevideo Convention on the rights and Duties of States 1933?. I will examine and investigate about this topic and to have focus on the challenges of non-state actors in global contexts. Also, there is a problem in the Montevideo Convention in many areas when you take an example of Palestine, Somaliland, and Kosovo and so on. Most of these possess either the four criteria of the Montevideo Convention or the Peace of Westphalia. Even the four Montevideo Convention itself are questionable for example, the situations which involve ( 1 ) .military occupation, (2) governments in exile, or (3) territorial sessions with no clear transfer of legal title, the Montevideo Convention is not clearly and this is exactly the case of Palestine and Somaliland.

I need to critically evaluate the existing arguments which have directly or indirectly answer my question. If there is research done that provides an explanation of why the concept of sovereignty in our days of globalization and the rise of non-state actors must follow the Montevideo Convention on the rights and Duties of States 1933?. I need to evaluate this argument to see how it can or cannot adequately provide an answer to my question. I will organize my literature review by categorize the existing arguments based on three schools of thought in international relations theory;

Realism, Liberalism and Constructivism. So, I evaluate how these three schools of thought have answered my question and what weaknesses they have. Realism makes several assumptions. It assumes that nation-states are unitary, geographically-based actors in an anarchic international system with no authority

above capable of regulating interactions between states, rather than IGOs, NGOs, or MNCs are the primary actors in international affairs. Thus states, as the highest order, are in competition with one another. As such a state acts as a rational autonomous actor in pursuit of its own self-interest with a primary goal to maintain and ensure its own sovereignty and survival.

### **Realism**

Realism holds that in pursuit of their interests, states will attempt to amass resources, and that relations between states are determined by relative levels of power. That level of power is in turn determined by the state's military and economic capabilities.

Some realists (offensive realists) believe that states are inherently aggressive, that territorial expansion is constrained only by opposing powers, while others (defensive realists) believe that states are obsessed with the security and continuation of the state's existence. The offensive view can lead to a security dilemma where increasing one's own security can bring along greater instability as the opponent(s) builds up its own arms making security a zero-sum game where only relative gains can be made.

### **Liberalism**

The precursor to liberal IR theory was "idealism"; however, this term was applied in a critical manner by those who saw themselves as 'realists', for instance E.H. Carr. Idealism in international relations usually refers to the school of thought personified in American diplomat history by Woodrow Wilson, such that it is sometimes referred to as "Wilsonianism". Idealism holds that state should make its internal political philosophy the goal of its foreign policy. Wilson's idealism was precursor liberal international relations theory, which would arise amongst the institution-builders after World War II.

Liberalism holds that state preferences, rather than state capabilities, are the primary determinant of state behavior. Unlike realism where the state is seen as unitary actor, liberalism allows plurality in state actions. Thus preferences will vary from state to state, depending on factors such as culture, economic system or government type. Liberalism also hold that interactions between states is not limited to the political/security ("high politics"), but also economic/cultural ("low politics") whether through commercial firms, organizations or individuals. Thus instead of an anarchic international system, there are plenty of opportunities for cooperation and broader notions of power, such as cultural capital (for example, the influence of firms leading to the popularity of the country's culture and creating a market for its export worldwide). Another assumption is that absolute gains can be made through co-operation and interdependence-thus peace can be achieved.

### **Democratic Peace Theory**

The democratic peace theory argues that democracies have never (or almost never) made war on one another and have few lesser conflicts between each other. This is seen as contradicting especially that realist theories and this empirical claim is now one of the greater disputes in political science. Numerous explanations have been proposed for the democratic peace. It has also been argued, with many scholars that democracies conduct diplomacy in general very differently from non democracies. Realists disagree with Liberals over the theory, often citing structural reasons for the peace, as opposed to the state's government.

### **Constructivism**

Whereas realism deals with security and material power, and liberalism looks primary at economic interdependence and domestic-level factors, constructivism most concerns itself with the role of ideas in shaping the international system (indeed it is possible there is some overlap constructivism and realism or liberalism, but they remain separate schools of thought). By "ideas constructivists refer to goals, threats, fears, identities, and other elements of perceived reality that influence states and non-state actors within the international system. Constructivists believe that these ideational factors can often have far-reaching effects and that they can trump materialist power concerns.

For example, constructivists note that an increase in the size of US military is likely to be viewed with much greater concern in Cuba, a traditional antagonist of the US, than in Canada, a close ally. Therefore, there must be perceptions at work in shaping international outcomes. As such, constructivists do not see anarchy as the invariable foundation of the international system, but rather argue, in the words of Alexander Wendt, that "anarchy is what states make of it". Constructivists also believe that social norms, shape and change foreign policy over time rather than security which realists cite.

### **1.1 Statement of the Problem**

These papers examine the concept of sovereignty in international relations from the perspectives of the Montevideo Convention on the Rights and Duties of States 1933. Sovereignty is usually understood in (the discipline of) international relations as an equivalent of 'independence' giving rise to the corollary rule of 'non-intervention'. However, this understanding cannot account for the actual workings of sovereignty in international relations (characterized by violations, status of semi-sovereign states, etc...).

The objective of this paper is to explain what we learn when we focus on the intrinsic civilization aspect of sovereignty. As will be argued, sovereignty is far from being a technical and objective concept, and should not be considered as a neutral and value-free assessment of a state's ability to be independent. The main hypothesis that will be developed is that sovereignty should be understood as one of the fundamental principles on which International Law and International Relations rests and relies on is that of Sovereignty or the Montevideo convention is not valid when international relations scholars recognize non-state actors and their growing involvement in world politics challenge the assumptions of traditional approaches to international relations which assume that states are the only important units of the international system.

While some authors recognize that these non-sovereign entities and their activities have led to fundamental changes in world politics, others maintain that the structure of the international system can still be treated on the basis of inter-state relations.

This inherent Western-centric nature of sovereignty will be revealed and analyzed through different case-studies. This conceptualization of sovereignty is relevant both for past and present international relations. So, this paper will examine the concept of sovereignty, and its meaning in the world today context. In particular, it considers how the concept of sovereignty helps us to understand the contemporary challenge of the non-state actors in the light of general theories of International Relation.

The emergence and development of the modern concept of sovereignty in the West, associated with the formation of the modern nation-state, can be traced back to the sixteenth century. In tandem with the development of the concept of the modern state, the existence of a sovereign authority in a separate community is universally recognized as the essential qualification for its membership of the international community. It also represents a symbol of territorial integrity, which underpins now widely accepted doctrines in international relations. Alongside the formation of the modern state, sovereignty has been gradually transformed into an abstract representation of absolute, indivisible power.

By contrast, the concept of sovereignty today is that, states are not the only actors in the international system. The non-state actors influence international politics without constituting themselves as a state. Some of these groups are not "State-in waiting" like Palestine. One important type of non-state actor is the intergovernmental organization (IGO). These run all the way from the United Nations to the permanent International Committee on Canned Food.

Often we try to force the more important IGOs into the mold of the sovereign state. We call our representatives to them "Ambassadors" we grant diplomatic immunity to their officers and premises in New York. The number of IGOs has grown from only a handful a Century ago to more than 2000 today. Growth of Non-governmental organizations (NGOs) has been even more spectacular. These are sometimes called transnational organizations (although "trans-state" would be more precise) because members communicate directly with each other by-passing their state governments.

A good example of an NGO is the Roman Catholic Church, which of course is even older than the state system that evolved in 1648. Today the number of NGOs has grown to more than 2000 including such organizations as the International Olympic Committee, the International Air Transport Association and the Experiment in International Living. Even the Roman Catholic Church is thought of today not as one but rather as a collection of nongovernmental organizations from the society of Jesus to the international conference of Catholic scouting.

Today there is considerable debate among scholars about the importance of these non-state actors. One study found that about 40 percent of the conflict in three regions of the world (Middle East, Western Europe, Africa and Latin America) resulted from the activities of non-state actors, but other studies, play down their importance. Two facts are indisputably clear;

1. The nation-state has been for the last 300 years and continues to be today the most important unit in international politics.

2. The nation-state has never been the only participant in international politics and ta present seems to be more than ever crowded by non-state actors.

The basic concept of Sovereignty has three distinct, which collectively define what it means to possess Sovereignty. The first element is legitimate authority. Authority is simply the ability to enforce an order; the qualifier "Legitimate" means that authority is invested with some of legal, consensual basis. Put another way, Sovereignty is more that the exercise of pure force.

The second element of Sovereignty is that it is supreme. What this means is that there is no authority superior to that of the possessor of Sovereignty; the Sovereign is the highest possible authority wherever the Sovereign holds sway. The third and the related element is that of territory; Sovereignty is supreme authority within a defined physical territory.

Since the Peace of Westphalia, the political state came to be the territorial definition of Sovereignty. Thus states have supreme authority over what occurs within their territorial boundaries, and no other source of authority can claim superior jurisdiction to the sovereignty.

According to this argument, the issue of the sovereignty and Montevideo Convention on the rights and Duties of States 1933 become more complicated, because the world today has been changed in many ways when you look the concept of globalization, World Wide Web and the growth of Non-state organizations.

Also, there is conflict of criteria for the state to be recognize has sovereign especially when you look the Peace of Westphalia treat of 1648 and the Montevideo convention and the issue of non-intervention in the case of Somalia;

(1) Permanent population (2) existing government and (3) Territory. The recognition of states and government comes into existence under international law when a population living in a defined territory that is administered by a government is recognized by other sovereign states. Recognition of a state's sovereignty amounts to an acceptance of its present and future claims to two rights-One internal and the other external. But also state is sovereign if it is independent if it is not subordinate to a foreign power.

Within the limits of international law, it is free to shape its domestic law as it sees fit. For this matter, what the status of Somalia during the civil war that was no existing government?

This paper I takes the view that the modern concept of sovereignty is built on the distinction between sovereignty and the form of government it takes. In Bodin's theory, sovereignty is indivisible, but government may take different forms.

The implication of this distinction between sovereignty and form of government suggests a possibility for setting new criteria for the sovereign states and can resolving the historical problem of middle east crisis of Israel and Palestine.

Sovereignty is the central organizing principle of the system of states. However, it is also one of the most poorly understood concepts in international relations. This confusion emerges from at least two sources. First, as will be discussed below, sovereignty is in fact a relatively recent innovation connected to the emergence of the nation-state as the primary unit of political organization. Second, what is more, a number of contemporary issues have placed increasing limits on the exercise of sovereign authority.

These two factors raise questions about the fixity of the concept of sovereignty often assumed by international relations scholars. A more sophisticated view of sovereignty now envisions states and non-state actors as engaged in a continual process of renegotiating the nature of sovereignty.[1]

At its core, sovereignty is typically taken to mean the possession of absolute authority within a bounded territorial space.

There is essentially an internal and external dimension of sovereignty. Internally, a sovereign government is a fixed authority with a settled population that possesses a monopoly on the use of force. It is the supreme authority within its territory. Externally, sovereignty is the entry ticket into the society of states. Recognition on the part of other states helps to ensure territorial integrity and is the entree into participating in diplomacy and international organizations on an equal footing with other states. The international system was not always arranged in terms of sovereign states.

Through the middle Ages alternative feudal arrangements governed Europe and city-states lasted up until the modern period. The development of a system of sovereign states culminated in Europe at the Peace of Westphalia in 1648. This agreement essentially allowed the ruler to determine the religion within his borders, but it also represents both the internal and external aspects of sovereignty.

(Internal sovereignty means supreme authority within one's territory, while external sovereignty relates to the recognition on the part of all states that each possesses this power in equal measure.) As Europe colonized much of the rest of the world from the fifteenth through the nineteenth centuries, the state system spread around the globe. Through this time, sovereign authority was clearly not extended to non-Europeans. However, the process of drawing boundaries to clearly demarcate borders would be critical for defining sovereign states during decolonization.

My paper investigate the topic if we are moving beyond Montevideo Convention on the rights and Duties of States 1933 contemporary challenge of Non-state actors in the light of general theories of International Relations traditional thoughts on sovereignty. I will look how far we are moving beyond Montevideo Convention on the rights and Duties of States 1933 in perspectives of International relation theory and International recognition.

## **II. OBJECTIVES**

1. To understand the status of Montevideo Convention on the rights and Duties of States 1933 is valid or not
2. To know position and the role of Non-state actors today in the world affairs.
3. To understand how the country can lost sovereignty.
4. Why there is stateless countries If so in what grounds will be a full state?
4. What the position of states in the concept of humanitarian intervention and non-interference?
5. Are we moving beyond the Westphalia system of sovereignty? Is it valid or not

## **III. INTRODUCTION**

As we know that, the Montevideo Convention on the rights and Duties of States was a treaty signed at Montevideo in Uruguay on December 26<sup>th</sup>, 1933 during the seventh International Conference of American States. The Convention codified the declarative theory of statehood as accepted as part of customary international law. At the conference, United States President Franklin D. Roosevelt and Secretary of State Cordell Hull declared the Good Neighbor Policy which opposed US armed intervention in inter-American affairs.

The convention was signed by 19 states which are United States, Argentina, Brazil, Chile, Colombia, Cuba, the Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Uruguay, and Venezuela. Bolivia was the only country attending the conference that refused to sign the agreement.

Article one of the Montevideo Convention sets out the criteria for statehood as follows:

“The state as a person of international law should possess the following qualifications: (a) a permanent population; (b) a defined territory; (c) government; and (d) capacity to enter into relations with the other states. Since the adoption of this criteria, as noted above, have been accepted by the international community and its foremost body the United Nations as accurate statement of international law.

Among the convention's provisions were that signatories would not intervene in the domestic or foreign affairs of another state, that they would not recognize territorial gains made by force, and that all disputes should be settled peacefully.

### **3. Historical background of Montevideo Convention**

This treaty was signed at the International Conference of American States in Montevideo, Uruguay on December 26, 1933. It entered into force on December 26<sup>th</sup>, 1934. The treaty discusses the definition and rights of statehood. The Governments represented in the Seventh International Conference of American States:

Wishing to conclude a Convention on Rights and Duties of States, have appointed the following Plenipotentiaries:

**Honduras:**  
MIGUEL PAZ BARAONA  
AUGUSTO C. COELLO  
LUIS BOGRAN

**United States of America:**

CORDELL HULL  
ALEXANDER W. WEDDELL  
J. REUBEN CLARK  
J. BUTLER WRIGHT  
SPRUILLE BRADEN  
Miss SOPHONISBA P. BRECKINRIDGE

**El Salvador:**

HECTOR DAVID CASTRO  
ARTURO RAMON AVILA  
J. CIPRIANO CASTRO

**Dominican Republic:**

TULIO M. CESTERO

**Haiti:**

JUSTIN BARAU  
FRANCIS SALGADO  
ANTOINE PIERRE-PAUL  
EDMOND MANGONES

**Argentina:**

CARLOS SAAVEDRA LAMAS  
JUAN F. CAFFERATA  
RAMON S. CASTILLO  
CARLOS BREBBIA  
ISIDORO RUIZ MORENO  
LUIS A. PODESTA COSTA  
RAUL PREBISCH  
DANIEL ANTOKOLETZ

**Venezuela:**

CESAR ZUMETA  
LUIS CHURTON  
JOSE RAFAEL MONTTLLA

**Uruguay:**

ALBERTO MANE  
JUAN JOSE AMEZAGA  
JOSE G. ANTUNA  
JUAN CARLOS BLANCO  
Senora SOFIA A. V. DE DEMICHELI  
MARTIN R. ECHEGOYEN  
LUIS ALBERTO DE HERRERA  
PEDRO MANINI RIOS  
MATEO MARQUES CASTRO  
RODOLFO MEZZERA  
OCTAVIO MORAT6  
LUIS MORQUIO  
TEOFILO PINEYRO CHAIN  
DARDO REGULES  
JOSE SERRATO  
JOSE PEDRO VARELA

**Paraguay:**

JUSTO PASTOR BENITEZ  
GERONIMO RIART  
HORACIO A. FERNANDEZ

Senorita MARIA F. GONZALEZ

**Mexico:**

JOSE MANUEL PUIG CASAURANC  
ALFONSO REYES  
BASILIO VADILLO  
GENARO V. VASQUEZ  
ROMEO ORTEGA  
MANUEL J. SIERRA  
EDUARDO SUAREZ

**Panama:**

J. D. AROSEMENA  
EDUARDO E. HOLGUIN  
OSCAR R. MULLER  
MAGIN PONS

**Bolivia:**

CASTO ROJAS  
DAVID ALVESTEGUI  
ARTURO PINTO ESCALIER

**Guatemala:**

ALFREDO SKINNER KLEE  
JOSE GONZALEZ CAMPO  
CARLOS SALAZAR  
MANUEL ARROYO

**Brazil:**

AFRANIO DE MELLO FRANCO  
LUCILLO A DA CUNHA BUENO  
FRANCISCO LUIS DA SILVA CAMPOS  
GILBERTO AMADO  
CARLOS CHAGAS  
SAMUEL RIBEIRO

**Ecuador:**

AUGUSTO AGUIRRE APARICIO  
HUMBERTO ALBORNOZ  
ANTONIO PARRA  
CARLOS PUIG VILASSAR  
ARTURO SCARONE

**Nicaragua:**

LEONARDO ARGUELLO  
MANUEL CORDERO REYES  
CARLOS CUADRA PASOS

**Colombia:**

ALFONSO LOPEZ  
RAIMUNDO RIVAS  
JOSE CAMACEO CARRENO

**Chile:**

MIGUEL CRUCHAGA TOCORNAL  
OCTAVIO SENORET SILVA  
GUSTAVO RIVERA  
JOSE RAMON GUTIERREZ  
FELIX NIETO DEL RIO

FRANCISCO FIGUEROA SANCHEZ  
BENJAMIN COHEN

**Peru:**

ALFREDO SOLE Y MURO  
FELIPE BARREDA LAOS  
LUIS FERNAN CISNEROS

**Cuba:**

ANGEL ALBERTO GIRAUDY  
HERMINIO PORTELL VILA  
ALFREDO NOGUEIRA

Who, after having exhibited their Full Powers, which were found to be in good and due order, have agreed upon the following:

**ARTICLE 1**

The state as a person of international law should possess the following qualifications: a ) a permanent population; b ) a defined territory; c ) government; and d) capacity to enter into relations with the other states.

**ARTICLE 2**

The federal state shall constitute a sole person in the eyes of international law.

**ARTICLE 3**

The political existence of the state is independent of recognition by the other states. Even before recognition the state has the right to defend its integrity and independence, to provide for its conservation and prosperity, and consequently to organize itself as it sees fit, to legislate upon its interests, administer its services, and to define the jurisdiction and competence of its courts.

The exercise of these rights has no other limitation than the exercise of the rights of other states according to international law.

**ARTICLE 4**

States are juridically equal, enjoy the same rights, and have equal capacity in their exercise. The rights of each one do not depend upon the power which it possesses to assure its exercise, but upon the simple fact of its existence as a person under international law.

**ARTICLE 5**

The fundamental rights of states are not susceptible of being affected in any manner whatsoever.

**ARTICLE 6**

The recognition of a state merely signifies that the state which recognizes it accepts the personality of the other with all the rights and duties determined by international law. Recognition is unconditional and irrevocable.

**ARTICLE 7**

The recognition of a state may be express or tacit. The latter results from any act which implies the intention of recognizing the new state.

**ARTICLE 8**

No state has the right to intervene in the internal or external affairs of another.

**ARTICLE 9**

The jurisdiction of states within the limits of national territory applies to all the inhabitants.

Nationals and foreigners are under the same protection of the law and the national authorities and the foreigners may not claim rights other or more extensive than those of the nationals.

**ARTICLE 10**

The primary interest of states is the conservation of peace. Differences of any nature which arise between them should be settled by recognized pacific methods.

**ARTICLE 11**

The contracting states definitely establish as the rule of their conduct the precise obligation not to recognize territorial acquisitions or special advantages which have been obtained by force whether this consists in the employment of arms, in threatening diplomatic representations, or in any other effective coercive measure. The territory of a state is inviolable and may not be the object of military occupation nor of other measures of force imposed by another state directly or indirectly or for any motive whatever even temporarily.

**ARTICLE 12**

The present Convention shall not affect obligations previously entered into by the High Contracting Parties by virtue of international agreements.

**ARTICLE 13**



The present Convention shall be ratified by the High Contracting Parties in conformity with their respective constitutional procedures. The Minister of Foreign Affairs of the Republic of Uruguay shall transmit authentic certified copies to the governments for the aforementioned purpose of ratification. The instrument of ratification shall be deposited in the archives of the Pan American Union in Washington, which shall notify the signatory governments of said deposit. Such notification shall be considered as an exchange of ratifications.

#### **ARTICLE 14**

The present Convention will enter into force between the High Contracting Parties in the order in which they deposit their respective ratifications.

#### **ARTICLE 15**

The present Convention shall remain in force indefinitely but may be denounced by means of one year's notice given to the Pan American Union, which shall transmit it to the other signatory governments. After the expiration of this period the Convention shall cease in its effects as regards the party which denounces but shall remain in effect for the remaining High Contracting Parties.

#### **ARTICLE 16**

The present Convention shall be open for the adherence and accession of the States which are not signatories. The corresponding instruments shall be deposited in the archives of the Pan American Union which shall communicate them to the other High Contracting Parties.

In witness whereof, the following Plenipotentiaries have signed this Convention in Spanish, English, Portuguese and French and hereunto affix their respective seals in the city of Montevideo, Republic of Uruguay, this 26th day of December, 1933.

### **III. RESERVATIONS**

The Delegation of the United States of America, in signing the Convention on the Rights and Duties of States, does so with the express reservation presented to the Plenary Session of the Conference on December 22, 1933, which reservation reads as follows:

The Delegation of the United States, in voting "yes" on the final vote on this committee recommendation and proposal, makes the same reservation to the eleven articles of the project or proposal that the United States Delegation made to the first ten articles during the final vote in the full Commission, which reservation is in words as follows:

"The policy and attitude of the United States Government toward every important phase of international relationships in this hemisphere could scarcely be made more clear and definite than they have been made by both word and action especially since March 4. I (Secretary of State Cordell Hull, chairman of U.S. delegation) have no disposition therefore to indulge in any repetition or rehearsal of these acts and utterances and shall not do so. Every observing person must by this time thoroughly understand that under the Roosevelt Administration the United States Government is as much opposed as any other government to interference with the freedom, the sovereignty, or other internal affairs or processes of the governments of other nations.

#### **1. The rise of Non State -Actors Organization and Sovereignty-Theoretical Framework**

Before to continue to my topic here first lets to discuss Non State-Actors. IR scholars define in difference meaning of non-actors, as Kenich Ohmae in his book "The End of the Nation State and the Borderless World, define Actor is a kind of political and economic entity which has its own interests, objective and ability and can involve in international affairs and show its influence independently.

- Actors are the those who interact in the international society and result in the what we call IR. Actor is subject of the IR, no actor, no IR. Sometimes actor is called agent in the constructivism term.
- Actor vs. structure

State or nation state actor state is the most important and primary actor in world.

Although states are key actors in world politics it is important to go beyond the state to pay attention to the influence of non-state actors in international politics. This focus beyond the state directly challenges the Realist assumption of international politics as the liberal view contends that there are plethora of actors that are all capable of exercising influence.

These actors vary in power and size, from important regional organizations such as the EU to global organizations such as the IMF. There are in addition many non-state actors, such as MNCs and NGOs. This group of non-state actors also includes terrorist and religious groups.

IGO, INGO, transnational corporation, international church, international community. International terrorism organizations are very famous especially the al-Qaeda.

After World War II, non-state actor become more and more important. Such as United Nation, International Monetary Fund, World Trade Organization, World Bank, even International Olympic Committee and FIFA are

vital in the world, the president of the two organization will get the equal diplomacy treatment as the president of a state, at least in China, such the former president of IOC, Juan Antonio Samaranch. The GDP of a giant transnational corporation are much more than a weak state. General Motors, Microsoft, Sino-petro.

### **The Rise of Non-state actor**

One of the key differences between Realism and Liberalism is the importance they accord to non-state actors. Realists argue that to be able actor on the world stage requires Sovereign control of territory, a resident population overseen by government and control of armed forces to provide security. Consequently, on the Realist account, on-state actors can safely be left out of any analysis as they will not affect the distribution of power in the international system.

By contrast, Liberals tend to give a prominent place to non-state actors, as in certain issue areas, such as the environment, on-state actors can play defining roles which determine or help to determine, outcomes in contemporary world politics.

I, agree with many IR scholars that, on-state actors they do not control territory and generally lack their own military forces are often able to exert significant influence on world stage. In direct contrast to the Realist position, James Rosenau argues that the influence of non-state actors stems largely from the fact that they are not tied to specific parcels of territory for which they are responsible. Rosenau argues that non-state actors are 'Sovereignty free' - that is they are not tied down in space and time to a particular chunk of land with its resident population, but instead benefit from their freedom of movement and autonomy.

Whereas Realists define the absence of Sovereign statehood as disqualifying an actor from importance in world politics, Liberals can find this supposed lack of sovereignty a source of strengths. Non-state actors are free to relocate, as we understand the case of MNCs, giving them significant leverage in their dealings with landbound, immobile states.

Non-state actors can also exert significant influence over states and other entities through their representation of sizeable numbers of people. The membership of some NGOs is greater than that of many of the smaller states in international system. Amnesty International has 2.2 million members worldwide, Greenpeace has 2.8 million members and the World Wildlife Fund (WWF) boast 5 million members-equivalent to the population of Denmark.

Non-State Actors also wield a number of resources which enable them to achieve their objectives in world politics. These resources can be broken down into financial, technical and knowledge categories. Non-state actors may also have access to new technologies, which enhances their influence in world affairs. For example, MNCs are frequently placed in an advantageous position vis-à-vis developing states by fact that the latter have no other means of access to new technologies. Finally, non-state actors exert a great deal of influence over states and other actors by virtue of their specialist knowledge of specific issue areas. For instance, Amnesty International operates in almost every country in the world and provides an unrivalled account of human rights globally.

Also I argue that Montevideo Convention on the rights and Duties of States 1933 is no longer valid because when you look aspects of globalization that seems to spell the death of sovereign control of territory is the worldwide web and non-state actors. The world now is in another era, is in a time when people of different nations are linked together without them having to cross the border, they do not need a passport or visa to enter another country.

Under the era of globalization, people can traders and other things via computer networks, they buy and sell, they will pay taxes on goods coming or when she needs. Currently undergoing graduate students at universities around the world without even lifting one point going into college campus, people in our days are reading through campus computers for distance learning.

As Professor Randall Baker said on his paper Challenges to traditional concepts of sovereignty; It is almost impossible to believe that the last decade has seen the explosion of the Internet and the birth (1993) and rise of the Worldwide Web—it simply was not there. Already it has shaped the way we communicate shop and file our taxes. And yet, unlike any of its predecessors, it is almost totally anarchic—or democratic if you prefer. There are no press barons to control it and railroad us into the Spanish-American War—there is the ultimate democracy of being able to put your point of view before the court of the world, instantly.

Sovereignty in the internet age. One of the aspects of globalization that seems to spell the death of sovereign control of territory is the World Wide Web.

### **2. Humanitarian intervention( A case of Somalia)**

When I think writing this paper about Somalia, many things comes in my mind, I remember the musician,

Asha Abdow Saleebaan (Bi. Malika) from Barawa Somalia based in Mombasa Kenya during the civil war in Somalia, she sings a song "Why captain in the Dhow fighting each other while we are sailing in the same dhow?"

But also I remember the story told my friend Mr. Suleiman Ganzi who was working at Foreign going ship said that; edge of sharks off the coast of Somalia and the disintegration of the nation after the collapse of the rule of dictator Said Barre in 1990.

In 1991, following the cessation of American aid to its Cold War ally, the regime of Colonel Said Barre collapse and Somalia descended into a state of civil war between competing clans leading to a humanitarian crisis. The United Nation Security Council took an unprecedented step in December 1992 when it passed Resolution No 794. This was the first time the Security Council had interfered directly in the internal affairs of a state without that state's formal consent.

The Security Council on December 3<sup>rd</sup> 1992 authorized a peacekeeping force (UNOSOM I) without consulted the Government of Somalia. We remember that the Government of Somalia was not consulted before the intervention because there was no legal government to consult by that time. The question is that if the Montevideo Convention on the rights and Duties of States one of the criteria for Sovereign State is existing government, is it true that in the absence of a government meant there was no Sovereign territory involved; that issue was officially ignored? The involvement of UN in Somalia, Democratic Republic of Congo the decision to engage in humanitarian intervention in a civil war in a country which the term "Failed State" was later conned represented a major change of direction that raised the question of what it meant to the overall nature of the International System if a World body like the UN could simply be used to ignore the Sovereignty of its members? On this basis we need to set new criteria for statehood.

On this occasion that was largely because there was no state to represent Somalia. United Nation efforts to restore order in Somalia quickly failed; with the Bill Clinton administration pulling out it peacekeepers following the death of 19 United States soldiers in the capital city of Mogadishu in 1993.(These events are the subject of Ridley Scott film Black hawk Down).

As we discussed early that the existence of a state is independent of its recognition by the other states. Many analysts have cited as an example in practice the collapse of central government in Somalia in the early 1990s. They contend that the Montevideo convention would imply that the state of Somalia no longer existed, and the subsequently declared republic of Somaliland (comprising part of the so called "former" Somalia) may meet the criteria for statehood.

Until today, no one recognize the new Somaliland even if there have four criteria of Sovereign state.

### **1. The Fall of Montevideo Convention in the globalization era**

Many scholars in international relation believed that political globalization has strong impacts on the statehood today and causes major changes in the world order. The Montevideo Convention on the rights and Duties of States of 1933 is facing many challenges like the Treaty of Westphalia in 1648 was also go the same way with Montevideo convention because in this global economic and rise of non-state actors there is no chance to base on the sovereign equality of states. The rise of supranational institutions displays an effort to integrate the world and bind the states to particular policy guidelines. National governments interact increasingly within the international system and are more than ever linked. . The Peace of Westphalia is naive and wrong to attempt to apply the Convention, drafted for different reasons and under totally different circumstances, to present days in international politics.

For example; even if the international community does not recognize Somaliland as the Sovereign State but the people of these stateless country doing a business global. On this basis there is no reason for this generation no longer closed and the land criteria to be recognized because of the resolution of Montevideo convention in 1933. Resolution that has no force, it cannot work in our own day; the world needs to set new terms of countries recognized sovereign state.

In my analysis I believe that the world in the current situation indicators Montevideo convention is no more, especially after the advent of globalization that makes the world turn into a small room with a move to interfere with the interior of the country specific taking a back stronger when the people of the nations where they can dealers via the Internet without the nation to have the side of the block.

We have, through the Montevideo Convention of 1933, a formula for deciding when a state deserves to gain recognition: (a) a permanent population, (b) a defined territory, (c) a government and (d) a capacity to enter into relations with other countries (Wallace-Bruce 1997).

We do not, however, have any mechanism to cope with the total collapse of a state such as Somalia, Liberia, Sierra Leone and others. Helman and Rattner, to deal with this growing crisis, propose some interesting "interventionist" models (Helman and Rattner 1992).

The question is that, are we moving beyond Montevideo Convention of 1933? Yes even far of this convention.

### **III. CONCLUSION**

AS we enter new millennium we are not suppose be binding for the Montevideo Convention on the Rights and Duties of States of 1933 because when you read the Article 1 of this Convention defines a "state" as a political entity that has the following four qualifications: a permanent population, a defined territory, government, and the capacity to enter into relations with other states. What about Kosovo, Somaliland, Palestine and others which possess almost the four criteria?

For the above analysis, it's clear that Montevideo Convention in the criteria of "The power to enter into international relations with other states is vague and contradictory. Someone can ask himself what is 'power to enter into international relations'? If we take straight dictionary definitions to attempt to decode this, then practically any entity that's ever had any sort of agreement with any state, including businesses, NGOs and fishing clubs, are all states (which is obviously not the case).

If you take the four criteria of state according to the Montevideo Convention, Some scholars in IR have cited as an example in practice the collapse of central government in Somalia in the early 1990s. They contend that the Montevideo convention would imply that the state of Somalia no longer existed, and the subsequently declared republic of Somaliland (comprising part of the so called "former" Somalia) may meet the criteria for statehood.

However the self-declared republic has not achieved recognition by other states. This defines statehood in terms of several de facto characteristics of a region. In fact, the first sentence of Article Three explicitly states that "The political existence of the state is independent of recognition by the other states

Also there is silence and contradictions of article 1 of Montevideo convention especially (when you mentioned "capacity to enter into relations with the other states" always I asking myself "This is valid in our days the so called "capacity to enter into relations" what about Olympic committee, FIFA, WTO? And what the position of humanitarian intervention? For my opinion, I conclude here that days are numbered for the existing of Montevideo convention and the fall these is on the way. I summarized here that the Montevideo convention not only outdated but also is going to cease automatically in global world.

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