



Power Politics: the UN, Iraq and The Principle of Sovereign Equality

Dr. Ebere R Adigbuo,

Senior Lecturer, Dept of History And International Studies, Delta State University, PMB 1 Abraka, Nigeria

Received 02 Mar, 2017; Accepted 05 May, 2017 © The author(s) 2017. Published with open access at www.questjournals.org

ABSTRACT: *In international relations discourse and possibly international law, no term has been so widely used than that of sovereignty, to the extent that its utilitarian values are today in doubt. Sovereignty is definitely a concept that has influenced the pattern of international life. Just like nationalism, sovereignty is the main threat to internationalism and world government. It is on this line that many analysts conceive sovereignty as having the potentials to frustrate world order through its emotionalism, narrow ethics, variations in form, ambivalence, necessity to forge a union, between nation and state and denial of reality of interdependence. Nonetheless, contrary to all set rules, nations act based on the principle of sovereignty. Nations are more than prepared to flout international rules due to their intolerant interpretations of what sovereignty is or is not. The United Nations endorsement of the concept of sovereign equality of all states has magnified the misconception as if sovereignty is synonymous with equality of states. It is in the midst of these analytical misconceptions that the need for a re-examination of the notion of sovereign equality of states arises. The UN involvement in the Iraqi wars would be used to demonstrate how sovereignty does not reflect the reality in world politics.*

Keywords: *Sovereignty, Equality, United Nations, Iraq, Power Politics*

I. INTRODUCTION

The principle of sovereign equality is revered as a ‘*grundnorm*’ in contemporary international relations. This is because it is considered as a basic legal principle from which several other principles in international law derive their validity. States are the primary subjects of international law, and are legally entitled to equal protection under the same law. It is on this account that Gottlieb stated that laws are made to protect the state from the individual and not the individual from the state. Accordingly, the vast majority of international statutes address the rights and duties of states, not people. This is why the principle of sovereign equality entitles each state to full respect by other states as well as equal protection by the systemic ordinances. The principle of sovereignty endows a state the right to act independently in both the domestic and external realms. Sovereign equality in this context refers to the formal recognition that within a plural international society, every state has an equal standing in international law. This therefore suggests that the rights, privileges, and responsibilities that are accorded to one state, ought to be automatically applicable to all other states within the international system, in spite of disparities in geo-political, economic, or military capabilities.

The doctrine is firmly enshrined in the founding document of the United Nations which clearly affirms in Article 2 paragraph 1 of the Charter that the world body “is based on the principle of the sovereign equality of all its Members.” The Charter further indicates that with sovereign equality as a guiding principle, the UN would be committed to preserving the “equal rights... of nations large and small.” Thus, since the establishment of the UN in 1945, the doctrine of sovereign equality has remained a core element which is often referred to members whenever they are threatened by the activities of larger States.

Moreover, the principle of sovereign equality has since become a focal point for a number of scholars and analysts who have however sought to examine the concept from different perspectives. For instance, Routledge have focused basically on the legal implications of the doctrine, while others such as Stirk have been rather concerned with the historiography of the doctrine. More so, from a different perspective, scholars such as James Fry have concerned themselves with the usefulness of the doctrine in contemporary international relations.

However, in spite of the large number of scholars who have examined the doctrine of sovereign equality from different perspectives, the extent to which the UN upheld the doctrine of sovereign equality during the Iraqi crises appears to have received inadequate scholarly attention; this in view of the dearth of relevant

literature in this regard. It is on this note therefore that this study undertakes to explore the extent to which the UN applied or upheld the doctrine of sovereign equality in its management of the Iraqi crises. The Iraqi crises in this context is taken to mean the different inter-State conflicts involving Iraq and the international community between 1990 and 2011. Notable in this regard are the first and second Gulf Wars of 1990-1991 and 2003 respectively; this is in addition to the US occupation of Iraq which lasted between 2003 and 2011.

The First Gulf War, also known as the Gulf Crisis has been described as one of the most significant international crises since the end of the Second World War. This is in consideration of the number of soldiers mobilised for the war, the diplomatic involvement of the international community, as well as the far-reaching implications of the conflict for international law. On the other hand, the Second Gulf War of 2003, otherwise referred to as the 2003 Invasion of Iraq, is described as one of the most controversial and momentous foreign policy decisions to be taken by any country since the end of the Cold War. This is especially because justifications for the war have remained largely unclear, as analysts have since continued to offer parallel explanations for the war.

It is therefore in the light of the foregoing that this essay assesses the extent to which the doctrine of sovereign equality was applied by the United Nations in handling and managing the Iraqi crises. The essay is divided into three main sections, where the first section examines the role of the United Nations in the First Gulf War, while the second section examines the activities of the UN during the 2003 invasion of Iraq. The last section appraises the response of the UN to the occupation of Iraq which lasted between 2003 and 2011. In all, the primary objective of this essay is to assess the extent to which the doctrine of sovereign equality was upheld by the UN during the different phases of the Iraqi crises.

First Gulf War

Iraq's annexation of Kuwait in 1990 is recorded as the first time since 1945 when the entire territory of a State was forcibly annexed by another State. It therefore posed as a test case for the UN in terms of its doctrine of sovereign equality which was fundamentally negated by Iraq's military actions against Kuwait. Thus, in response, the UN, seeking to preserve Kuwait's sovereignty, and equally avoid the violation of its doctrine of sovereign equality, swiftly condemned Iraq for aggression. The UN also slammed a number of sanctions on Iraq through a number of Resolutions, most of which were however sponsored by the United States. Eventually, Iraqi forces were evicted, and Kuwaiti's independence restored.

It is however essential to query further into the role of the UN, and the implication of such roles for the doctrine of sovereign equality. It is however being argued that while the UN contributed actively towards the restoration of Kuwaiti's sovereignty, it failed to do enough towards upholding the doctrine of sovereign equality in the wake of the US-led coalition against Iraq. For instance, while UNSC Resolution 678 had implicitly legitimized the use of force against Iraq, it was so drafted that responsibility for resolving the Iraq-Kuwait conflict was shifted from the shoulders of the UN to a delegated member-State which may act unilaterally towards implementation previous Resolutions of the world body. It was on this note therefore that the US stepped in to lead the coalition against Iraq.

The point to stress therefore is that while the UN did not necessarily turn a blind eye on Kuwait when its sovereignty was being violated by advancing Iraqi troops, it failed to take a decisive action towards resolving the conflict. Instead, the UN allowed a situation where the United States almost exclusively controlled and coordinated the implementation of its Resolutions. With this situation, the US tended to tower above other States as a 'hyper-power' with outstanding influence in the international community. It is therefore argued that by allowing the US and a few other States assume the sole responsibility of implementing the UNSC Resolution 678, the UN had given room for the violation of its doctrine of sovereign equality. It is on this note that Cronin argues that the First Gulf War presented the US with an opportunity to display its new found hegemonic status in the post-Cold War world. Weston adds that the great-power pressure from the US on UNSC members to pass Resolution 678 indicates the persistence of inequality among States.

Iraq War of 2003

The legality of the Iraq War of 2003 has been variously discussed by scholars and analysts alike, with a good number of such analyses describing the war as illegal. Even the then UN Secretary-General, Kofi Annan described the war as illegal, having violated some fundamental principles enshrined in the founding Charter of the UN, and also having failed to receive the approval of the UN Security Council. However, the question of legality is not so much the concern of this essay, as the specific area of interest is in the role played by the UN during the conflict, alongside the implication of such roles for the doctrine of sovereign equality. It must be appreciated that the unilateral invasion of Iraq in 2003 was not the first of its kind. Under the Clinton's administration, the United States sidelined the UN during the Bosnian crisis; she led air strikes and the US brokered Dayton Peace Accord. US unilateralism was also displayed in the vehement opposition of Boutros Boutros Ghali for a second tenure as the UN Secretary General. America's unilateralism was also shown

between 1998-2000, when the US and Britain continued bombing Iraq in the Operation Desert Fox. This military exercise was made years after the Persian Gulf War of 1991.

On this note therefore, it must be recalled that when the US and its allies invaded Iraq, in 2003, the UN was not a party to the attack. In fact, it is recorded that the US failed to secure necessary votes from the UN in support of the attack, she therefore went ahead to invade Iraq regardless of the unwillingness of the UN to support the war. This was after a declaration by the US government in March 2003 that with the failure of diplomacy, the US would proceed with its “coalition of the willing” to get rid of weapons of mass destruction which Iraq under Saddam Hussein had acquired.

It was against this backdrop therefore that the US issued an ultimatum for Saddam Hussein to leave power. When Saddam refused to relinquish power, the US and its coalition forces invaded Iraq, leading to the outbreak of the Iraq War. However, in the course of the war, the UN failed to condemn the US and its allies for violating Iraq’s sovereignty and the doctrine of sovereign equality. At this point, it is important to recall that when Iraq violated Kuwait’s sovereignty, the UN immediately opposed Iraq and permitted international action against Saddam’s regime. The case was however almost entirely different when the US undermined Iraq’s sovereignty. It may therefore be argued that the UN failed to uphold the doctrine of sovereign equality during the Iraq War, since it did not apply to Iraq, the same rights, responsibilities and privileges that accrued to Kuwait earlier in 1990. In other words, what is being argued is that whereas the UN immediately demanded that Saddam withdraws Iraqi troops from Kuwait in 1990, the world body failed to order US President Bush to withdraw American troops from Iraq in 2003. This therefore suggests that the doctrine of sovereign equality was not upheld by the UN during the Iraq War of 2003, as it failed to condemn or punish the US when it violated Iraq’s sovereignty as well as the doctrine of sovereign equality.

It should be noted that diplomatic negotiations were still on-going when President Bush invaded Iraq. The attack was therefore not only a violation of Iraq’s sovereignty, but an utter disregard for the doctrine of sovereign equality. This is because by attacking Iraq without obtaining support from the UN, the United States projected itself as an unequal power endowed with a special privilege to flout UN processes without consequences. Shortly before the onset of the invasion, then US Secretary of State, Condoleezza Rice, declared that the US was losing patience with waiting for UN’s approval. She therefore remarked that “it is time to bring the UN Security Council process to a conclusion” This statement was followed by the deployment of sophisticated military equipment towards the Gulf Region.

On March 17, 2003, during a closed door Security Council meeting, Sir Jeremy Greenstock, envoy to the United Kingdom, informed the Council that the UK and US were no longer interested in obtaining Security Council support for its planned attack on Iraq. He therefore advised the UN to immediately withdraw its personnel from Iraq, as an attack was already underway. The US envoy, John Negroponte justified the decision to ignore the Security Council, on the grounds that France had already threatened to use its veto against any draft resolution seeking to enforce foreign military intervention in Iraq.

Thus, on March 19, 2003, the US and its allies invaded Iraq. Interestingly, as soon as the war began, the US and its allies began to criticise the UN for indecision and inability to enforce its resolutions. On the other hand, those who opposed the war, were disappointed by the inability of the UN to stop the invasion, or take a decisive step in that regard. Some had therefore nursed the opinion that the UN had outlived its usefulness, and were therefore already talking about a post-UN world order. That notwithstanding, what is important to note is that the US violated the doctrine of sovereign equality by invading Iraq, and that the UN on the other hand failed to uphold the doctrine of sovereign equality in their inability to take a meaningful decision against the United States’ unilateral invasion of Iraq in 2003. It is also important to note that after the war, the Security Council never questioned the Coalition Provisional Authority’s (CPA) leading role in making policy for occupied Iraq. The leading role of the CPA in policymaking in Iraq implied that the US was directly involved in drafting policies, rules and regulations for Iraq. This therefore means that Iraq had simply become a vassal to the United States, and this is a fundamental negation of the doctrine of sovereign equality.

It is therefore being stressed that the Iraq War of 2003 was clearly a violation of the doctrine of sovereign equality, as the US and its ‘coalition of the willing’ deliberately undermined Iraq’s right to sovereign equality. The study however places a greater share of the blame on the United Nations which failed to preserve Iraq’s sovereignty and the doctrine of sovereign equality in the light of America’s aggression. It must even be noted that by 2004, the United States had pressured the UN into becoming an accomplice in its violation of the doctrine of sovereign equality.

Occupation Of Iraq

After the 2003 Iraq War which pitted Iraq’s Baathist regime against coalition forces led by US troops, the occupation of Iraq had become imperative. This is because after decades of dictatorship and weeks of intense combat operations, there was need to stabilize and reconstruct the Iraqi society. Thus, the US government alongside other members of the Coalition stationed some of its troops in Iraq, majority of whom

were American personnel. The occupation lasted between 2003 and 2011, and was characterized by series of political turmoil and widespread violence, as a good number of Iraqis were opposed to the rising influence of the United States and its allies over Iraq.

The occupation began with the establishment of the Coalition Provisional Authority (CPA) which exercised day-to-day governing powers in Iraq. The CPA which was under the US Department of State, exercised all executive, legislative, and judicial authority, as its regulations and orders took precedence over all other Iraqi laws and ordinances. It must however be noted that the origin of the CPA is largely unclear as the earliest record of its existence came from the letter written by the United States and the United Kingdom to the UN Security Council on May 8, 2003, announcing the existence of the supreme body over Iraq.

Among the notable activities of the CPA include the de-Ba'athification of Iraq, dissolution of Iraq's Republican Guard, as well as the formation of the Iraqi Governing Council. The CPA also abolished Saddam's policy which prohibited foreign ownership of Iraqi businesses, stipulating in its Order 39 that "a foreign investor shall be entitled to make foreign investments in Iraq on terms no less favourable than those applicable to an Iraqi investor." The Order also stated that the foreign investor "shall be authorized to... transfer abroad without delay all funds associated with its foreign investment, including shares or profits and dividends..."

These policy adjustments may be indicative of the fact that the US invaded and occupied Iraq in consideration of the advantages and privileges that such a feat would help them achieve in the Iraqi legal system. It may however be equally considered that the occupation of Iraq had become imperative given the fact that Iraq had survived years of dictatorship and several weeks of intense combat operations; the country was therefore in dire need of reconstruction, reasons for which the adjustments had become imperative.

Nevertheless, the occupation of Iraq raises some salient issues with regards to legality of the occupation vis-à-vis the continued relevance of the doctrine of sovereign equality in contemporary international relations. First, as pointed out by Yeo, the mere idea of foreign military occupation within a sovereign State negates the entire principle of sovereign equality. Also, the leading role played by the US in the occupation of Iraq equally negates the concept of sovereignty and territorial integrity, and as such violates the doctrine of sovereign equality.

Beyond, the US occupation of Iraq, the complicity of the United Nations equally raises some huge concerns. Suffice to recall that in a poll conducted among American publics on who should lead the reconstruction effort in Iraq, 50 percent of participants favoured the need for the UN to take the lead. Consequently, the US and its 'coalition of the willing' returned to the UN to seek its support in the post-War reconstruction of Iraq. As pointed out by Munoz, the decision of the US government to return to the United Nations for a new mandate and greater assistance in Iraq had been informed by the need to overcome the growing difficulties of an occupation authority. The US therefore returned to the UN with a draft resolution calling for the establishment of a multinational force in Iraq, while its Secretary of State, Colin Powell justified the invasion as a mission to liberate rather than colonize Iraq. At this point, other representatives of the UN welcomed the US back into its fold, but sought amendments for the draft resolution sponsored by the US.

It is however recorded that during deliberations on the draft resolution calling for a multinational force in Iraq, the US exhibited reluctance in allowing amendments. At one point, the US Ambassador Negroponte warned members of the Security Council that the US government would not accommodate further modifications to its draft resolution. The US diplomat also threatened that in the case of further modifications, the US was prepared to withdraw its resolution and continue its unilateral roles in Iraq.

Eventually, the United States and its allies, particularly the United Kingdom, got the Security Council to authorize "a multinational force under unified command to take all necessary measures to contribute to the maintenance of security and stability in Iraq." Some countries like China, France, Germany, Pakistan and Russia however declined to contribute to the multinational force arguing that the mandate of the UN force should have been different from that of the occupation forces led by the US.

At this point therefore, the move of the US government in seeking UN's support in the occupation of Iraq may be understood as a product of necessity, rather than an outright endorsement of multilateralism. As such, the decision of the US to return to multilateralism may not be interpreted as a step towards preserving the doctrine of sovereign equality. Instead, it is being argued that it was a display of the power and influence of the US to violate UN doctrines and still receive the support of the UN. Put differently, it is being stressed that where the US deserved punishment for unilaterally invading Iraq alongside its allies, she rather received the support and endorsement of the UN in post-war reconstruction. This therefore suggests that there was no equal treatment of equals during Iraq crises, in negation of the doctrine of sovereign equality.

II. CONCLUSION

The use of force by a state against another has been abolished and such use is now transferred to the United Nations, in her quest to maintain international peace and security. The only exception is when a country acts in self defence. For self defence to arise, there must be actual armed attack by an aggressor state [Iraq].

Neither is a threat to national security a sufficient reason for the use of force. But the task which faces the international community is how to bring powerful nations within the rubric of law. This study reveals that the powerful obey laws only when it is convenient, not out of obligation. In this paper, the extent to which the doctrine of sovereign equality was upheld during the Iraqi crises has been discussed. The Iraqi Crises in this context was taken to mean the series of conflict that plagued Iraq in recent years, beginning from the Persian Gulf War of 1990-1991, through the Iraq War of 2003, to the occupation of Iraq which officially came to an end in 2011. The essay argues that in all three phases of the crises, the principle of sovereign equality was neither sufficiently adhered to nor upheld.

The essay therefore attempts to explain the inability of the UN to uphold its doctrine of sovereign equality during the Iraqi crises by identifying some structural errors built into the UN Charter. First, the essay argues that the explicit acknowledgement of great power statuses in the Charter of the UN, and the allocation of special functions to such great powers, tends to contradict the doctrine of sovereign equality. Also, it is considered that the absence of a standing military force to enforce the resolutions of the UN, places some States in the position to act as enforcers of international law, which in turn negates the doctrine of sovereign equality.

It is therefore suggested that since the doctrine of sovereign equality is accepted as a grundnorm in international relations, where the UN stands as the only international organization with global membership, there is need to review and amend its founding document in order to address some structural inconsistencies. First, there is need to reverse the idea of permanent membership to the UN Security Council, which is the highest decision making organ of the world body. This is because the permanent status enjoyed by some States in the UNSC is a clear endorsement of sovereign inequality. It is also recommended that there is need for the establishment of a UN standing force under the command of the President of the Security Council, as this will help reduce the problem of lack of political will among States when there is need for the world body to militarily enforce its resolutions.

This paper therefore concludes that during the Iraqi crises, there were flagrant violations of the doctrine of sovereign equality, where the United Nations was however unable to take a firm decision aimed at defending its doctrine. Worse still, it is unclear if the United Nations since the end of the Iraqi crises has repositioned itself to better uphold the doctrine of sovereign equality in situations where a great power is the offender. It is therefore suggested that until certain reforms are initiated, the UN will remain handicapped and incapable of enforcing its doctrine of sovereign equality.

REFERENCE

- [1]. C. Reus-Smit, "Human Rights and the Social Construction of Sovereignty." *Review of International Studies*, Vol. 27, 2001, pp.519-538
- [2]. J.W. Harris, "When and Why Does the Grundnorm Change?." *The Cambridge Law Journal*, Vol. 29, No.1, 1971, pp. 103-133.
- [3]. Gottlieb, G. "Global Bargaining" in Onuf, N G (ed), *Law-Making in the Global Community*, Durham: Carolina Academic Press, pp. 109-30.
- [4]. Jean L. Cohen, *Globalization and sovereignty: Rethinking legality, legitimacy, and constitutionalism*. Cambridge: Cambridge University Press, 2012.
- [5]. Ibid.
- [6]. United Nations, "Charter of the United Nations" October 24, 1945 <http://www.un.org/en/charter-united-nations/> Accessed September 15, 2016.
- [7]. Ibid.
- [8]. Peter B. Rutledge, Rutledge, Peter B. "Toward a Functional Approach to Sovereign Equality." *Va. J. Int'l L.* 53, 2012, pp.181-201
- [9]. P.M.R. Stirk, "The Westphalian Model and Sovereign Equality." *Review of International Studies*, Vol. 38 No. 3, 2012, pp. 641-660.
- [10]. J.D. Fry, "Sovereign Equality under the Chemical Weapons Convention: Doughnuts over Holes." *Journal of Conflict and Security Law*, 15(1), 2010, pp. 45-63.
- [11]. Fred Halliday, "The Gulf war 1990–1991 and the study of international relations." *Review of International Studies* 20.02 (1994): 109-130.
- [12]. Ibid.
- [13]. Raymond Hinesbusch, "The US Invasion of Iraq: Explanations and Implications." *Critique: Critical Middle Eastern Studies*. Vol. 16, No. 3. 2007, pp. 209-228
- [14]. Ibid.
- [15]. Oscar Schachter, "United Nations Law in the Gulf Conflict." *The American Journal of International Law*, Vol. 85, No. 3, 1991, pp.452-473
- [16]. Burns H. Weston "Security Council Resolution 678 and Persian Gulf Decision Making: Precarious Legitimacy." *The American Journal of International Law*, 85(3), 1991, pp. 516-535.
- [17]. Bruce Cronin, "The Paradox of Hegemony: America's Ambiguous Relationship with the United Nations." *European Journal of International Relations*, 7(1), 2001, pp. 103-130.
- [18]. Weston, "Security Council Resolution 678..." 1991.
- [19]. For studies that argue the illegality of the Iraq War see Gerry Simpson. "War in Iraq and International Law, The." *Melbourne Journal of International Law*, Vol. 6, 2005, pp.167-189; Nikolaus Schultz. "Was the War on Iraq Illegal – The German Federal Administrative Court's Judgment of 21st June 2005." *German Law Journal*, Vol. 7, 2006, pp.25-32.
- [20]. "Iraq War Illegal, Says Annan." BBC News, September 16, 2004, http://news.bbc.co.uk/2/hi/middle_east/3661134.stm Accessed November 29, 2016.
- [21]. Tasneem Meenai, "From Central to Peripheral: The United Nations and the Recent Iraq Crisis." *Strategic Analysis*, 27(4), 2003, pp.577-602

- [22]. Heraldo Muñoz, and Kofi Atta Annan. *A Solitary War: A Diplomat's Chronicle of the Iraq War and its Lessons*. Golden, CO: Fulcrum, 2008, p.71
- [23]. Heraldo Muñoz, and Kofi Atta Annan. *A Solitary War: A Diplomat's Chronicle of the Iraq War and its Lessons*. Golden, CO: Fulcrum, 2008, p.71
- [24]. Matthew R. Hover, "The Occupation of Iraq: a Military Perspective on Lessons Learned." *International review of the Red Cross*, Vo. 94, No. 885, 2012, pp. 339-346
- [25]. Gregory H. Fox, "The Occupation of Iraq." *Georgetown Journal of International Law*, Vol. 36 No. 2, 2005, pp.195-297
- [26]. Coalition Provisional Authority, Order Number 39, http://www.iraqcoalition.org/regulations/20031220_CPAORD_39_Foreign_Investment_.pdf Accessed November 21, 2016
- [27]. Ibid.
- [28]. Susan Power, "The 2003–2004 Occupation of Iraq: Between Social Transformation and Transformative Belligerent Occ¹ Andrew I. Yeo, "Security, Sovereignty, and Justice in US Overseas Military Presence." *International Journal of Peace Studies*, 19(2), 2014, pp.43-67
- [29]. "The UN and Iraq," *New York Post*, September 4, 2003, p.28.
- [30]. Heraldo Muñoz, and Kofi Atta Annan. *A Solitary War*, 2008, p.97
- [31]. Ibid. p.98
- [32]. Ibid. p. 98
- [33]. Ibid. pp.101-102
- [34]. United Nations, "Security Council Resolution 1511 (2003) on Authorizing a Multinational Force under Unified Command to Take all Necessary Measures to Contribute to the Maintenance of Security and Stability in Iraq." <http://dag.un.org/handle/11176/26967> Accessed December 3, 2016.
- [35]. Heraldo Muñoz, and Kofi Atta Annan. *A Solitary War*, 2008, p.98