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ORIGINAL ARTICLE

Conflicts of sovereignty in contemporary Europe: a framework of analysis

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Abstract

Contemporary conflicts of sovereignty in Europe have gone beyond the clash between national and supranational sovereignty. Sovereignty conflicts are increasingly occurring within member states. This paper develops a conceptual framework that distinguishes between foundational, institutional and territorial conflicts of sovereignty, elaborating on this taxonomy with reference to the historical evolution of the concept of sovereignty in Europe. It provides an account of why we have seen a proliferation in conflicts of sovereignty within European states. This is due in part to the notion of "shared" sovereignty. Central to European integration, this notion has introduced considerable institutional indeterminacy into the political systems of member states, leading to many of the institutional conflicts of sovereignty we see in Europe today. The struggle of national party systems to institutionalize societal conflict via partisan competition is another contributory factor. This has displaced conflict onto the terrain of how popular rule is institutionalized within the national state. In developing this framework, the paper provides a method for distinguishing between political conflicts *tout court* and those touching specifically upon sovereignty. Moreover, the framework helps us distinguish between those conflicts of sovereignty most destabilizing for a polity and those which are less so.

Keywords Sovereignty · Nation-states · Democracy · Representation · Constitution · Separation of powers · Politicization

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Introduction

The relationship between sovereignty and European integration takes us back to the earliest moments of post-war European economic reconstruction. In Alan Milward's formulation (1992), European economic integration was the means via which Western European national states regained their sovereignty. For post-war federalists, European cooperation promised to overcome national sovereignty altogether. They associated sovereignty with war, empire and political violence (Eilstrup-Sangiovanni 2006: 36–42). For theorists of European integration, as well as for politicians, it has been more common to think of a trade-off: the benefits of integration come only if some measure of national sovereignty is "shared" with EU institutions. Critics of "ever closer union" lament the manner in which national states struggle against an expanding European "superstate". Defenders of the EU respond that only by giving up on "outdated" notions such as national sovereignty can the EU survive and flourish in the twenty-first century. In an attempt to reconcile these positions, "the EU polity has been progressively reframed as compatible with a modern and pragmatic conception of sovereignty" by national mainstream elites (Jabko 2020: 150). Most recently, French President Macron has made much of "European sovereignty". By this, he means more European "strategic autonomy" in areas such as defence and digital technology (Macron 2017; Lefebvre 2021).

The starting point of this special issue is that sovereignty conflicts are increasingly occurring within the member states. However, the type of domestic sovereignty conflicts we observe differs from those which have historically characterized the emergence and development of this idea. National sovereignty is the form taken by a set of relationships binding the people to the state, or the governed to the governors; conflicts are therefore endemic. However, we are interested in a new set of sovereignty conflicts which occur at the national level but are products of the transformation in national political life associated with decades of regional integration. New generations of EU integration theories seek to grasp how domestic political conflicts shape the political life of the European Union (Hooghe and Marks 2019). We are concerned here with the way in which sovereignty conflicts—often focused on European-wide issues—have become rooted in the everyday political life of national states.

This paper begins by developing a framework for thinking about conflicts of sovereignty within member states. It treats sovereignty as a key political principle which identifies the legal and political source of ultimate authority, translates abstract claims about "who rules?" into institutional structures vested with the authority to govern, and delineates the borders of the political community. Each of these three dimensions of sovereignty—the foundational, the institutional and the territorial—can become the subject of intensive disagreement and conflict. The paper inquires into reasons why we have seen a proliferation of sovereignty conflicts at the national level. Societies are constantly beset by conflicts of all kinds so why should these take the form of conflicts about sovereignty?

Different stories are told about the origins of contemporary sovereignty conflicts within EU member states. These range from the politicization of EU

integration (Hooghe and Marks 2009; Jabko and Luhman 2019) to the encroachment of the EU into the "core state powers" of member states (Genschel and Jachtenfuchs 2018). In this introduction, we focus on two developments that have been given less direct attention. The first is the notion of "shared" sovereignty and its place in the EU's multi-level governance arrangements (Walker 2003). We argue that this notion removes from the modern concept of sovereignty an internal hierarchy that binds the foundational dimension to its mode of institutionalization. In the same manner that the combination of different conceptions of democracy can lead to confusion in the absence of an agreement about democratic standards (e.g. Lord and Pollack 2010 cf. Lord and Magnette 2004), "shared" sovereignty discourse has unleashed conflicts between multiple sovereignty claims. The second development is the difficulty national party systems have in translating social and political conflicts into partisan disagreements, regulated by the rhythm of electoral competition. With parties struggling to serve as transmission belts between society and politics, we have seen a shift from party competition framed around rival policy agendas towards conflicts about the very manner in which popular will is institutionalized.

After conceptualizing conflicts of sovereignty in section one and discussing their origins in section two, we outline in section three how foundational, institutional, and territorial types of sovereignty conflicts are documented in the papers that make up this special issue. We conclude with a reflection on how this framework about conflicts of sovereignty could be applied more widely and how it may help us grasp some of the peculiar features of contemporary European politics.

Conceptualizing conflicts of sovereignty

Conflicts of sovereignty are as old as the concept itself (Walker 2003; Adler-Nissen and Gammeltoft-Hansen 2008; Grimm 2015). Nevertheless, drawing on the cases examined in this issue, we aim to introduce some order into the discussion to shed light on recent developments in Europe. We specify the sorts of conflicts that obtain in an era of "shared" sovereignty, distinguishing them from the conflicts consistent with the exercise of national sovereignty in the absence of regional integration. We claim that even if conflict is almost an ever-present feature in the history of the concept of sovereignty, not all conflicts are the same nor do they have the same origins.

As argued by Loughlin and other public and constitutional law theorists (Rawlings et al. 2013), sovereignty is a political relationship founded upon an abstract and normative claim about where political authority should lie (Loughlin 2003). In its original formulation, the claim was intended to clarify the relationship between secular and religious power in response to growing religious pluralism (Franklin 1992; Tuck 2015: 1–62). This relationship was transformed by its embrace of popular will. Sovereignty as a principle was thus born out of conflict between theological and secular understandings of political rule in the sixteenth and seventeenth centuries. A protracted struggle between monarchical and popular sovereignty followed in the eighteenth and nineteenth centuries. These were conflicts between rival claims about the *foundation* of political power (hence—*foundational* conflicts) and led in some

instances to civil and international war. Having said this, any such abstract principle needs legitimate institutionalization if it is to function as a basis for governing. In this respect, there is considerable variation.[1] The principle of popular sovereignty is the foundation for centralized states with presidential systems, such as France, for the British doctrine of parliamentary sovereignty, and for the decentralized and complex federal systems that we associate with the USA and Germany. These are different *explications* of the same underlying principle of popular sovereignty (Loughlin 2003: 84).[2]

Conflicts around how a principle should be institutionalized are related to—but distinct from—foundational conflicts. The former occurs between executive, legislative and judicial actors competing for power and authority. Relations between these institutional actors descend into conflict when one or more of the actors seek to redefine their roles. Even if there is no written constitution, relations between branches of government are usually regulated by identifiable norms and established patterns of behaviour (on the UK, see Goldsworthy 2010; Craig 2013). At this level of institutionalization, we find the hierarchical aspects of sovereignty diffused across a wide range of institutions, what is often referred to as the doctrine of the separation of powers. However, as we note below, this more "liberal" conception of sovereignty can be clearly distinguished from the "sharing" and "pooling" of sovereignty that characterizes regional integration. We suggest below that these types of conflict are aggravated when the established relationship between the foundational principle and its institutionalization is undone. This occurs after the establishment and spread of the "shared" sovereignty discourse and when the party system's role in this institutionalization is no longer considered as legitimate as it once was.

A third dimension relates to the political community itself. Boundaries are constructed and often contested. A key sovereignty conflict occurs if one part of "the people" wishes to constitute itself as a separate people. Conflicts will occur if political authorities seek to authorize their rule with reference to a political community whose very existence is contested. This is what we call territorial conflicts of sovereignty. The term territorial does not mean that these conflicts are strictly geographical in nature or have any strong connection to 'natural' boundaries. The political community itself is a constructed entity. Except for networked communities such as diasporas, *peoples* tend to define themselves with reference to territorial boundaries. Historically, boundary contestation has been a frequent dimension of sovereignty conflicts.

This framework is helpful in at least two ways. One is that it relativizes the importance of conflicts of sovereignty. Foundational conflicts of sovereignty are at

[1] It is worth recalling here the distinction between the sovereign and government, which is the subject of Tuck (2015). The foundational dimension refers to what Rousseau takes as being sovereignty, whilst the institutional conflicts are at the level of government. Loughlin makes the distinction between legal and political sovereignty, with the latter referring to the relationship between the governed and the governors whilst the former refers to institutions through which power must be exercised. See the discussion of tenet 4 and 5 in Loughlin (2003: 79–82).

[2] For a broader history of sovereignty that considers the non-Western aspects of its formulation and development, see Zarakol (2018).

the heart of some of the most destabilizing and dramatic moments in our political histories. Both the American and French revolutions were the means by which a new principle—popular sovereignty—established itself, challenging the absolutist sovereignty that had hitherto been dominant. Sovereignty, as a secular principle of rule associated principally with the centralizing authority of emergent national states, was at the heart of the Reformation and the intense violence between Catholics and Protestants (Franklin 1992). By comparison, inter-institutional conflicts of sovereignty occur on a more regular basis and with less drama. They include moves towards a greater codification of a hitherto unwritten constitution or the changing balance between parliaments and executives. The transition from the Fourth to the Fifth republic in France was a dramatic change in the institutionalization of popular rule. Its backdrop was war over the status of Algeria as a component part of French territory. Nevertheless, in metropolitan France, the shift from a parliamentary to presidential system occurred peacefully.

Another contribution of this framework is that it helps us differentiate clearly between political conflict *tout court* and sovereignty conflicts. Much of what we associate with political conflict does not involve any obvious conflicts of sovereignty. Party systems have evolved in ways that systematically and explicitly channel deep societal conflicts into a mechanism of "regulated rivalry" (Rosenblum 2008). Competing party programmes "stand in" for what might otherwise be competition over how to structure the political sphere itself. The most significant cleavages identified by scholars of party politics bear little direct relevance to questions of sovereignty. They include ideologies of left and right, urban versus rural communities and confessional conflicts within established religions (Lipset and Rokkan 1967).s The same applies to more recent work on electoral and social cleavages (Marks et al. 2021) and to the much-documented rise of identity politics and associated 'culture wars' (e.g. Fukuyama 2019). By adopting this framework of foundational institutional and territorial conflicts of sovereignty, we are better able to draw a line between conflicts that are relevant for us and those that are not. Different types of conflict may overlap of course. Institutional conflicts of sovereignty interact with material conflicts around the distribution of wealth and religious disputes, as the history of the English civil war makes clear (Kishlansky 1997). Nevertheless, it is important to develop a framework for thinking about conflicts of sovereignty in order to demarcate these conflicts from others.

Explaining the 'new' conflicts of sovereignty

In this section of the paper, we provide some explanation for the proliferation of sovereignty conflicts in Europe. As noted already, sovereignty conflicts in recent decades have been viewed as clashes between national governments and supranational institutions. As argued elsewhere (Brack et al. 2019), this uniquely vertical account of sovereignty conflicts overlooks their complexity. Recent work around sovereignty "claims", "games" and "practices" has started to fill some of this gap (Werner and De Wilder 2001; Adler-Nissen and Gameltoft-Hansen 2008). "New" sovereignty conflicts are not only multidimensional but also multi-level: invoking EU politics

and policies whilst occurring within the institutional specificities of the member states themselves.

This section develops two main arguments. One is that the doctrine of "shared" sovereignty contains within itself the basis for many of the institutional conflicts of sovereignty that we have seen develop in Europe in recent years. This is because "shared sovereignty" entails a diffusion of power across multiple levels and actors, without any hierarchy between sovereignty claims that would serve to contain the conflicts between actors (see also de Burca 2003; De Witte 2003). The second argument we develop is about the failure of national party systems to channel societal conflicts into partisan political competition. When national party democracy is weak, conflicts proliferate alongside and outside of the party system. Sovereignty is one such terrain for conflicts. The prominence of sovereignty conflicts thus reflects a sustained and systematic weakness in national party systems. "Shared sovereignty" and weak party systems are connected to one another (Mair 2006, 2013; Bickerton 2018). The diffusion of power demobilizes political parties and national party systems, generating disaffection with representative politics. This disaffection is one factor in the crisis of national party systems and the emergence of new conflicts that pit "the people" against the elite. These sorts of conflict challenge existing institutionalizations of popular rule. In brief, the evolving practices of state sovereignty through EU policy-making have fed into the reclaiming of popular sovereignty in national arenas (Jabko 2020).

"Shared" sovereignty in post-Maastricht Europe

In the late 1980s and early 1990s, a new discourse of "shared" sovereignty emerged in Europe. This referred to the way that ultimate authority was to be split between different national and supranational jurisdictions and actors, depending on the policy area (De Burca 2003: 457). This new discourse disassociated the concept of sovereignty from the framework of the national state, emphasizing instead the dispersal of political power across a variety of actors and institutional settings (Héritier 1999). Conceptualized in relation to international institutions (Rosenau and Czempiel 1992; Slaughter 2005; Bellamy and Palumbo 2010), there was also a specific focus on Europe (MacCormick 1999: 123–136). "Shared" sovereignty as a notion was developed within different academic perspectives, from constitutional law to political theory. In this introduction, we argue that the discourse and practice of "shared" sovereignty is at the heart of the conflicts of sovereignty that we observe today in Europe and which are the subject of this special issue.

By the mid-1990s, "shared sovereignty" had become the standard understanding for the exercise of sovereign authority in Europe. Joseph Weiler called this the "European *Sonderweg*", meaning the practice by member states of limiting their own sovereign authority in the absence of a pan-European sovereign imposing this limitation by force (Weiler 2003: 8). As Neil MacCormick put it, "[to] the extent that the terminology of 'divided sovereignty' is found valuable either rhetorically or analytically, it can be applied here—the sovereignty of the [European] Community's member states has not been lost, but subjected to a process of division and

combination internally, and hence in a way enhanced externally" (1999: 133). Building upon this philosophical recasting of the concept of sovereignty, sovereignty was viewed as a resource or bargaining chip, used by states in managing their relations with each other (Keohane 1995). In the words of Robert Cooper, sovereignty was not an absolute right but rather "a seat at the table" in regional and international organizations (2004).

This redefinition of sovereignty was driven by the growing acceptance that the EU would not lead to a transcendence of national sovereignty (as predicted by Haas 2004) and other neofunctionalists in the decades after the end of the Second World War (Brack et al. 2021: 6). Nor was the EU merely the sum of independent national sovereigns coordinating their action on a discretionary and voluntarist basis. A form of "shared sovereignty" had emerged where national governments were embedded within a complex set of transnational arrangements—what Marks et al. (1996) called the EU's "multi-level governance". Advocates of "shared sovereignty" often differed in their goals: some saw it as an antidote to the dangers of national sovereignty whilst others saw in it the opportunity to overcome sovereignty altogether (Morgan 2005: 111–132).

There is a close relationship between "shared sovereignty" and contemporary sovereignty conflicts. A central feature of the modern concept of sovereignty has been disagreement over how to institutionalize the principle of popular rule. As noted above, this institutionalization differs from country to country—federal in some cases, centralized in others (Bellamy 2017: 197). However, this institutionalization is a variation on the common foundational norm of popular sovereignty. By contrast, "shared sovereignty" is independent of any abstract principle and rests upon an ambivalence towards popular rule. Rather than being an institutionalization of popular sovereignty, "shared sovereignty" uncouples constitutional arrangements from any fundamental norm. As Jabko and Luhman observe, "[e]xtensive areas of 'pooled' or 'delegated' sovereignty accrue at the EU level, but this itself lends fluidity to member states' sovereignty practices" (2019:1039).

Bellamy recognizes that there are significant variations in the institutionalization of popular sovereignty. He stresses that there "needs to be procedures or mechanisms capable of resolving conflicts between different bodies that constitute a single sovereign authority" (2017:197). Absent any such mechanism, conflicts of sovereignty will proliferate, especially in a polity as complex as the EU, with its multiple (vertical and horizontal) separations of powers and political logics (Fabbrini 2015: 213). Bellamy emphasizes in particular the possibility of territorial sovereignty conflicts emerging in the wake of "shared sovereignty", and eventually possibly even secession. In his words, "the more segmental the divisions within the polity become, the more the devolution of power to sub-territorial units is likely to give rise to separate peoples within a polity" (2017: 197).

It would be an error to claim that the "pooling" of sovereignty has come without *any* attempts to arbitrate between competing sovereignty claims. Various forms of conflict avoidance have been the object of practical and scholarly reflection, the

most famous perhaps being Weiler's notion of "constitutional tolerance".[3] However, we can gain some understanding of the problems of "shared" sovereignty discourses and practices by looking into detail at the Madisonian conception of sovereignty, which has been regularly cited as a non-hierarchical form of sovereignty. The problem with this reading of Madison is that it preserves the institutional accoutrements of Madisonian sovereignty whilst removing from it any necessary attachment to popular rule (Bickerton 2011). For Madison, popular sovereignty was the ultimate source of political authority. The authority of the executive, legislature or a constitutional court derived from its connection to "the people" (in Ball 2003: 228–9). The branches of government and the doctrine of the separation of powers were the institutional realization of the ideal of popular sovereignty, not a division or a sharing of sovereignty. As Weiler notes (2003), even for federal states, this attachment to "the people" as the constituent power is there.

In contrast, "pooled" or "shared" sovereignty theorizes the branches of government and the separation of powers as distinctive—and equivalent—sovereignty claims. In this conception of sovereignty, institutional conflicts of sovereignty are normatively desirable: they dilute the power of majorities and thus help protect minority interests (Keohane et al. 2009). Moreover, there is no moral or political distinction to be made between limitations on majorities that come from within a polity (e.g. through constitutional courts) and those which come from outside, in the form of binding international treaty commitments or participation in regional integration processes. Most crucially, in "shared" sovereignty there *cannot* be any hierarchy of the sort where one foundational norm determines the relations between institutions. This would recreate the model of the national state which "shared sovereignty" seeks to disrupt.

The elimination of any hierarchy between competing sovereignty claims lays the logical basis for the institutional conflicts of sovereignty that we have seen emerge in the era of "shared sovereignty". Any attempt at sharing sovereignty will generate uncertainty and doubt as to what the relationship should be between an underlying norm and its instantiation within concrete institutional structures. Madison emphasized the importance of conflict between different branches of government and he was suspicious of state legislatures. He called them "democratic despotism", believing that they conceded too easily to the demands of vocal groups within individual states. However, Madison's solution was not to "share" sovereignty across the states and the federation. He recast the notion of popular sovereignty by arguing that the constituent power was composed of all American citizens with voting rights, no longer divided into populations of individual states. Madison wielded the weapon of popular sovereignty against the anti-Federalists, who also believed in popular sovereignty but only for individual states (Ball 2003). Contemporary notions of "shared" or "pooled" sovereignty articulate the divisions between different actors but they ignore the unifying force of popular sovereignty that Madison relied for his vision of the American political system.

[3] For a discussion of these forms of conflict avoidance, see Jean Cohen's (2012) book on globalization and sovereignty. Our thanks to one of the reviewers for their comments in this regard.

The EU's particular mode of integration—which combines supranational and intergovernmental policymaking—aggravates these conflicts (Fabbrini 2015: 232). In part due to the resilience of national identities, but also owing to the widespread understanding that there is "no demos" at European level (Grimm 1995), the notion of "shared" sovereignty has been left without a foundational norm of its own. A decade ago, Habermas identified a form of transnational popular sovereignty in the relations between EU citizens and "the peoples of Europe" formalized in the Lisbon Treaty (2011: 11, 97). Grappling with the same problem, '*demoi*crats' have argued that distinct national *demoi* could exert forms of shared or joint sovereignty in guiding decision-making in the EU (Cheneval and Schimmelfennig 2013; Cheneval and Nicolaïdis 2017). A recurring idea has been to strengthen national parliaments and give national elected representatives effective decision-making power, for instance over socio-economic governance (Hennette et al. 2019). However, in the absence of a clear framework for determining relations between different sovereignty claims, stronger national parliaments may only aggravate institutional conflicts of sovereignty in Europe by introducing new tensions between national parliaments and national executives. Without agreement on a "*demoi*cratic vision" for the re-articulation of popular sovereignty, contestation at the domestic level takes the form of opposition between popular sovereignty and the EU.

The crisis of European party democracy

A second source of sovereignty conflicts is the crises of representation afflicting European party systems. These crises are evident in falling turnouts, electoral volatility, declining membership for political parties, low levels of trust in democratic politics, and long-running corruption scandals that extend from Spain in the West all the way to much of Central and Eastern Europe (Dalton and Wattenberg 2002; Mair 2013; Diamanti and Lazar 2019; Preston 2020: 539–565). The connection between party systems and sovereignty conflicts is twofold. Party systems developed as a way of translating deep social cleavages into conflicts between political parties (Lipset and Rokkan 1967). This served both to give these cleavages a tangible existence—the *representative* function of parties—but at the same time to render divided societies more governable—the *responsible* function of parties (Mair 2009). Since democratic politics operates around a set of procedures, central to which is the acceptance of the legitimacy of one's political opponent, conflict in party systems operates as a form of "regulated rivalry". Conflict is between programs, regulated by the common assent to the electoral method as a way of arbitrating between these programs (Rosenblum 2008; Bickerton and Invernizzi Acccetti 2021). We should not look back at the era of national party democracy as any sort of "golden age". This period generated its own forms of contestation, not least in the deep political and cultural conflicts of the late 1960s and 1970s. However, this was a time when society and politics were bound together in multiple ways, a form of embedded democracy that has been well-documented by historians of post-1945 Europe (Judt 2005; Conway 2020).

Weak party systems generate sovereignty conflicts when they are no longer able to channel societal cleavages into political alternatives between parties. The result is that the party system as a whole appears staffed by a self-interested political elite, resulting in a clash between "the people" and "the elite" (Katz and Mair 2018). We have here a crisis around the manner in which popular sovereignty is institutionalized. Conflicts that would typically have been channelled into partisan disagreement at the level of the party system instead take the form of conflicts around claims to represent "the people" as a whole. Rather than seeing an existing constitutional balance between a legislature, executive and court as the right institutionalization of the principle of popular rule, appeals to "the people" are made by populist parties and actors *against* the existing mode of institutionalization of popular sovereignty. At the same time, existing holders of authority—parliaments, courts, governments, party leaders—may undertake their own efforts at appealing directly to "the people", by-passing the mediating role of traditional political parties, as they have done with a growing reliance on referendums (Lord 2021; Glencross 2021). Weak party systems not only generate new anti-system movements that challenge the status quo. They also push mainstream parties to adopt counter-measures of their own, which may include politicizing inter-institutional and constitutional issues. In effect, partisan competition remains but the nature of the struggle—as Schattschneider would have put it—has shifted onto the institutional and constitutional terrain. Parties increasingly compete through their respective politicization of sovereignty claims rather than competing over ideological and/or policy goals which require the (uncontested) sovereign power of the state.

European integration plays a particular role in this interplay between weak party systems and sovereignty conflicts. Traditionally, the issue of the EU has been difficult for party systems organized along left vs. right ideological lines. Parties have often found themselves internally divided on the EU, as we saw in France in 2005 and in the United Kingdom in 2016. As a consequence, EU issues have been the preserve of executives and officials, at some distance from partisan political competition, with a resulting sense of voter powerlessness vis à vis European integration. In so far as this has fuelled anti-establishment sentiment, it has contributed to the institutional sovereignty conflicts described above. Domestic politicization of EU integration, of the kind we have seen particularly since the sovereign debt crisis, can lead to new sorts of sovereignty claims. This includes attempts to build new sovereignty discourses at the transnational level, in response to the electoral successes of national populism—a development seen most clearly in France with Emmanuel Macron's vocal embrace of European sovereignty as a challenge to the popularity of the far right *Rassemblement National*'s defence of national sovereignty. As Jabko and Luhman have argued, domestic politicization need not only serve as a constraint on the deployment on sovereignty discourses; it may also catalyse existing discourses and generate new ones (2019: 1039).

Foundational, institutional and territorial sovereignty conflicts: introducing the findings of the special issue

The papers gathered in this special issue offer an illustration of diverse sovereignty conflicts which have been prominent in Europe's political life. They offer in-depth case studies focussing on a variety of domestic polities—Belgium, France, Germany, Italy, Poland, Spain, the UK—and the diversity of policy and political issues, from the legitimization of EU trade policy and the rise of the populist far right to regional separatism, management of the Covid-19 pandemic and exit from the EU. The threefold conceptualization of sovereignty conflicts—foundational, institutional, and territorial—we have put forward both connects the papers to one another and helps draw out their singularities. In the background of all papers, unsettled shared sovereignty and/or the crisis of party democracy act as main drivers for these conflicts.

Three papers show how institutional sovereignty conflicts intersect with foundational sovereignty conflicts. In her paper, **Coman** investigates the 2015 political crisis in Poland which broke out over the nomination of the judges of the Constitutional Court. At first sight, this conflict has been mainly institutional as it featured the confrontation between the government led by *Law and Justice* (PiS) and the opposition (*Civic Platform*) in the parliament. A closer analysis, though, unveils two important findings. First, the conflict does not only reflect disagreement over the constitutional order and the role of the judiciary, but more fundamentally, a clash between conceptions of democracy, which give rise to the institutional sovereignty conflicts. Whereas the conservative government (Law and Justice Party, PiS) champions an exclusively majoritarian vision of democracy in which sovereignty is located firmly within electoral majorities, legitimizing a strong state and empowering an exclusivist nation, the liberal opposition (Civic Platform, PO) has articulated a version of sovereignty as anchored into the constitutional order safeguarded by the Court and the rule of law. Second, both visions are antagonistic in their relation to the broader European political order epitomized by the notion of "shared sovereignty". Whilst the Civic Platform conception of liberal democracy and sovereignty does not collide with the multi-level institutionalization of power, PiS' discourse and practice of sovereignty clearly appear as a reaction to the doctrine of "shared sovereignty" and the related sense of "loss" of control at the national level.

In contrast, the paper by Bickerton and Brack finds a strong degree of normative stability in the political disputes following the 2016 vote on UK membership of the EU. The series of event triggered by the Brexit referendum was often pitched—not least by political actors themselves—as a conflict between the historic doctrine of parliamentary sovereignty, symbolic of the Westminster model, on one hand, and the irruption of the popular voice through the use of the referendum, on the other. Notwithstanding some calls to ignore the referendum result entirely, or to organize a second consultation, there was a general consensus around the binding nature of the vote. Rather than a genuine foundational conflict of sovereignty, the Brexit disputes were concentrated at inter-institutional level,

most evident in the clashes between the executive, the Parliament and the judiciary. This is supported by the analysis of two specific contentious episodes analysed in the paper. The first case is the decision to trigger Article 50 TEU to start negotiations over the UK's exit from the EU. This involved a debate about the role of parliament, followed by a decision by the UK Supreme Court (in Miller 1 vs UK Govt.) The intervention of the judiciary did not fully settle the issue: conflicts continued as the Withdrawal Bill failed to get parliamentary approval. The second case was the debate over the second referendum, which started almost immediately after the 23 June 2016 vote and was central to political and popular mobilizations until the December election of 2019. Throughout, popular sovereignty remained the unchallenged principle of political rule during this era. Party factionalism and division played a large part in the difficulties for Brexit-related legislation to pass through Parliament, which showed how Brexit-related instability was fuelled by the difficulty from government parties to mediate the multidimensional issue of European integration (involving matters such as redistribution and welfare, borders and migrations, trade and finance, etc.).

The study of political contention surrounding the EU's trade agreement with Canada (EU-Canada Comprehensive Economic and Trade Agreement—CETA) by Crespy and Rone points to an institutional conflict of sovereignty which also reflects ambiguities about foundational principles. The paper looks at grassroots mobilization as well as parliamentary activism at the regional, national and EU levels with a focus on Belgium and Germany. It shows that the opponents of CETA mobilized in the name of popular sovereignty, claiming that "peoples' voices" should find channels of expression in the EU multi-level polity. In contrast, the defenders of CETA within national and the EU executives promoted a vision where national states are key to the exercise of popular sovereignty. In this perspective, states enjoy sufficient legitimacy to share sovereignty among themselves and delegate important powers to technocratic bodies in the name of effectiveness. The EU's exclusive competence over trade, which allows the European Commission to negotiate agreements in the name of all member states, is a case in point. The dispute therefore reflects a clash between strictly popular conceptions of sovereign power and those for more accommodative to the delegated powers of external bodies, a clear instance of where sovereignty claims by citizens and parliaments clash with one another. Asking whether the contestation of CETA has led to the democratization of trade policy in later agreements concluded by the EU with Vietnam, Singapore and Japan, Crespy and Rone find that the EU institutions have been successful in strategically containing the transformation of EU trade policy through the empowerment of regional and national parliaments.

Three further papers in this special issue illustrate how institutional disputes emerge out of diverse territorial conflicts of sovereignty across Europe, without necessarily awaking the demons of foundation conflicts around "who rules?". A more straightforward example investigated by *Closa* is the attempt of the independentist movement in Catalonia to reach secession from the Spanish state. According to Closa, the independentists were very successful in constructing a narrative which made secession the remedy to fundamental problems of democracy in Spain. By claiming a right to unilateral secession in the name of a "just cause", they in fact

created a conundrum in which democracy came to contradict the rule of law (as defined in the framework of the Spanish state). In this way, the secessionists could use the legitimizing power of democracy to advance their cause. Implicitly, the argument was rooted in the territorial nature of the conflict. To the question "who is the sovereign people?" and "who rules?", the independentists answer by defining the right to self-rule in reference to the Catalan nation. This was evident through the invocations of the right to self-determination and references to the independence of Kosovo acknowledged by the international community. In turn, the new territorial demarcation of the political boundaries between Catalonia and Spain has been at the root of a series of institutional conflicts. A key difficulty lay in the claim that a majority within the Catalonian parliament—for instance in favour of organizing a referendum—would provide sufficient legitimacy in spite of the absence of majority at the level of Spain as a whole. Between 2010 and 2017, nine resolutions passed by a majority within the Catalonian parliament were declared null and/or unconstitutional by the Spanish Constitutional Court. Catalonian struggle for independence is therefore a territorial sovereignty conflict, with important ramifications on the relations between sub-national and national institutions.

The territorial dimension is also central in *Basile and Borri's analysis* of the voting dynamics entailed by sovereignty claims in Italian politics. In the aftermath of the 2008–2010 financial and debt crisis, Italy has witnessed a deteriorating socio-economic situation in a context where the EU has exerted pressure on national governments of indebted countries to respond to the crisis by austerity and internal devaluation. Against this background, the country has witnessed a surge of populism, notably through the rise of the anti-establishment Five Star Movement but also the strengthening of radical right parties. This paper concentrates on two far right parties, the *Lega* and *Fratelli d'Italia*. It analyses how their claims to sovereignty relate to the processes of supranational integration, on one hand, and the decentralization of powers to regions, on the other. These two parties share the same common emphasis on the restoration of nation state's sovereignty whilst having contrasted historical roots. *Fratelli d'Italia* is the heir of Italy's strongest nationalist tradition whereas the *Lega*—up until the party' s "rebranding" under Matteo Salvini's leadership—has long been the key regionalist actor, articulating demands for more autonomy for parts of Northern Italy. Those voters who are disenchanted by how the politics work and, at the same time, think that the politicians are not doing enough to "defend the nation", look at radical populist right as reliable and trustful alternative to the current national (and distrustful) ruling elites. At the same time, more inclusive and deliberative models of decision-making based on popular active participation are not especially appealing to these (rightist) voters unlike what is assumed by the supporters of popular sovereignty. The study also shows how the two parties display a differentiated capacity to mobilize by stressing different dimensions of the sovereigntist discourse. When it comes to more radical alternatives like regions' independence, then the Lega still appears as the main credible actor, especially in the electoral strongholds of the north, where the independentist demands are still relevant nowadays. In turn, *Fratelli d'Italia*, owing to its deep-seated radical right-wing profile, proves more able to garner support by appealing to issues such as border control and immigration. The rise of right-wing populism in Italy is a very strong illustration of how crises in party democracy can lie at the root of new conflicts of

sovereignty: parties increasingly mobilize around a multitude of sovereignty claims, alongside more conventional policy platforms. The resulting discourse of 'sovereignism' is—in the Italian case—torn between new forms of regional secessionism and resurgent nationalism.

Finally, the paper by *Benoit and Hay* on the coronavirus pandemic highlights how, focusing on the comparison between the UK and France, different institutionalizations of the principle of popular sovereignty have led to different responses to the pandemic. The authors identify three tensions in the conception of how political authority and power should be activated as an expression of popular will in times of emergency and crisis. First, in the initial phase of the pandemic in the first months of 2020, a "sovereigntist reflex" has trumped calls for effective global governance and a multilateral management of the pandemic. This was especially visible in the way in which the authority of the World Health Organization was denied or even undermined by national governments. In spite of an agreement eventually reached by member states in June 2020 around a common EU vaccine strategy, the European Commission repeatedly failed to harmonize national approaches—be it in terms of supply, prioritization of target groups, or use of available doses. Overall, we witnessed a framing of the sanitary crisis in terms of national security and national capacity to mobilize the necessary resources. Later on, France and the UK, as other states, have faced a tension between libertarian take supporting a residual state protecting liberties and facilitating individual choice and a sovereign-statist "instinct", calling for an empowered guardian of the public good capable of ensuring collective security. When the second wave hit in the fall of 2020, both decision-makers have increasingly faced a dilemma between the state as a reactive entity governing from the bottom up by following the preferences expressed by public opinion, on one hand, and a more assertive state seeking to pro-actively provide public goods. This last tension has crystallized on the—at times awkward—relationship between experts and politicians. The paper finds surprising convergence between the way in which Emmanuel Macron and Boris Johnson have attempted to navigate these tensions contain the pandemic and retain popular support. The lesson to be drawn from this may be that institutional sovereignty conflicts are not only shaped by philosophical traditions or different constitutional orders. In the era of neoliberalism and global threats, decision-makers seem to face very similar dilemmas in terms of how to accommodate self-rule and interdependence, state capacity and individual liberties, and bottom-up vs. top-down policy-making. Whilst different ways of institutionalizing the principle of popular sovereignty may shape public policy outcomes to a degree, this paper suggests that in the case of the Covid-19 pandemic, there has been a more elementary tension between state authority and individual liberty, and between emergency rule and the need for public deliberation.

Conclusion

The purpose of this special issue is to make sense of the complexity of contemporary sovereignty conflicts which seem to proliferate in today's Europe. We have proposed in this introduction an analytical framework that distinguishes between

foundational, institutional and territorial conflicts of sovereignty. We argue that the rise of "shared" sovereignty as the basis for contemporary multi-level governance, on one hand, and the protracted crisis of party-based democracy, on the other, are two of the main drivers of such conflicts.

A main finding of this collective endeavour is that in spite of proliferating sovereignty conflicts, and notwithstanding extensive "sovereignist" mobilization that seeks to defend "the people" against an out-of-touch national and supranational elite, Europe does not find itself in an acute historic moment of normative destabilization. Broadly speaking, the idea of popular self-rule as the very basis of the political order still enjoys a wide consensus. A variety of political practices do exist which have undermined this democratic principle. The EU's bias for executive federalism and technocratic rule in many policy areas has so far made effective participation and popular choice elusive. In some instances, minority movements of governing majorities have instrumentally used the ideal of popular self-rule to enforce and legitimize their own agendas. Nevertheless, looking at contemporary Europe from the perspective of our framework of sovereignty conflicts, we have found fewer foundational conflicts than we might have expected given contemporary concerns about the politicization of European integration and the prominence of differentiated integration as a solution to some of the EU's boundary and externality problems (Lord 2015).

Political actors and citizens have been divided most of all by a series of institutional and territorial conflicts of sovereignty. How can power be institutionalized in the name of the people, in a way that overcomes a generalized loss of faith in the capacity of parties and politicians to represent their own citizens? And what is the role of regional integration in the proliferation of conflicts around the very definition of "the people", in Spain, Poland, the United Kingdom, Italy and elsewhere? This special issue highlights the way in which institutional conflicts of sovereignty may not be as destabilizing as foundational conflicts but they still have the capacity to change the domestic or the EU constitutional and political order, often in dramatic and unexpected ways.

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