CHAPTER 13
INTERNATIONAL NORMS IN THEORIES OF INTERDEPENDENCE:
TOWARDS STATE-LESS LAW?

BARBARA DELCOURT

At the end of the nineteenth century, the positivist and voluntarist conception of international law that eclipsed the natural law conception, articulated a system of rules governing the relations between “civilised” European states, as against a universal juridical order. International law was to rediscover its original universal vocation only in the wake of the foundation of the United Nations (UN) and in particular, after decolonization. From that point on, it established itself as positive law elaborated by states who voluntarily limit their sovereignty via bilateral or multilateral frameworks in accordance with their own interests, those of their population, or even those of humanity in its entirety. In this sense, international law constitutes a limit to state power, which states have agreed to, either directly (by participating in the creation of these rules) or indirectly (by tacitly or explicitly accepting their imposition). However paradoxical this auto-limitation may appear, it was to constitute a real limit on the legal freedom of states.

Contrary to the widespread view that sees sovereignty as the absolute power of the state on its own territory, to the point where it has the right to massacre its own population, the state’s liberty is more often limited by conventional and customary rules, notably those concerned with the protection of persons. As the Permanent Court of Justice stated in 1923 (in the steamship “Wimbledon” case), it is precisely by virtue of the principle of sovereignty that states bind themselves internationally and can renounce certain competences. Hence,

In the international order, the supremacy of state power implies that the state cannot be curtailed by any other state or group of states. It can, however, voluntarily renounce, in agreement with other states, the individual exercise of certain prerogatives: to respect these limitations is therefore not to renounce, but to fulfil state power.
An absolute conception of sovereignty therefore is not grounded in international law doctrine. Whilst the “dogma” of sovereignty as an unlimited power under domestic law is being abandoned, in international relations the state only enjoys full and complete sovereignty in those areas in which it has not entered (tacitly or expressly) into any particular agreement. This link between law and sovereignty has important repercussions for the juridical principle of non-intervention in internal affairs. Third party states (or international organizations) are justified in demanding that a state respect its engagements, in which case, the “target” state cannot put in a plea under the rule of non-intervention; because it was by virtue of the very principle of sovereignty that it committed itself to respect certain norms.\(^5\)

The positivist and voluntarist conception of international law, then, rests on the principle of the sovereign equality of states, and, more generally, on the principle of independence. The doctrines I will examine hereafter, are critical of the principle of sovereignty in its traditional sense, and disconnect law and state sovereignty; sometimes under the influence of theories imported from political philosophy.

**The Primacy of the Rights of Individuals and Communities**

The strand of thought which maintains that the principle of state sovereignty has eroded in the face of the growing scope of international organization, developed notably after the First World War, e.g. in the work of Léon Duguit and Nicolas Politis.\(^6\) Well before the current questioning of the principle of sovereignty, certain legal scholars had already proposed to replace the notion of independence that underlies sovereignty with that of interdependence. For Charles Rousseau, an international jurist sympathetic to this point of view, the notion of sovereignty is defective in several respects: the imprecision of its content, its non-correspondence with social realities, and its dangerous political implications (limitation of the domain of arbitration and obligatory jurisdiction, non-compliance with international decisions, refusal of supranationality, disdain for the rights of weak states, resort to violence etc.).\(^7\)

Two types of legal doctrine illustrate this imperative of transcending a state-centric international order to the benefit of individual and collective rights: the “solidarism” of Georges Scelle and the “normativism” of Hans Kelsen.

Scelle challenges the usefulness of the notion of sovereignty, suggesting to replace the principle of independence with that of interdependence.\(^8\) According to the “objectivist” conception he defends, the state is first and foremost a social phenomenon linked to the existence of bonds of solidarity. It is characterised by the fact that it is certainly the most strongly integrated, the most powerful and
the best organised political society. However, Scelle’s analysis (which he claims is realist and objective in the sense that it applies to law the demands of positivism developed in the social sciences) leads him to consider the state, juridically speaking, a chimera. Indeed, the true subject of law can only be the individual because “the norm is an imperative that can only address itself to an intelligence capable of comprehending it”.9 The state is therefore merely a “national constituency of international global society of which its nationals are members”.10 Positive law is objective in the sense that it expresses the mechanisms of social solidarity that are indispensable for the cohesion of the international community. It frames and limits the powers of that which is formally described as ‘sovereign”. Positive law is not conceived as immutable natural law deduced from Reason, or even as law emanating from the will of the governing rulers. The political authorities do not “create” law, they only ascertain and express “pre-existing” rules of objective law that correspond to concrete social realities.

From the normativist perspective of Hans Kelsen, state sovereignty is challenged on different grounds. In this view, the state does not exist outside of law: it is a community instituted by law—more precisely, by international law as the sole juridical order that determines the realm of the personal, territorial and temporal validity of national legal orders.11 No line of demarcation separates the juridical order of the state from other juridical orders, be they infra- or supra-state orders. The only differences between the diverse political entities corresponding to these orders will be quantitative differences linked to the degree of the centralization of authority and competence.12 The principle of sovereignty does not represent a “fullness of power” that expresses itself at the heart of a state or in the international sphere; it simply signifies that the state is subordinate only to the international legal order.13

For Kelsen, who dedicated himself all along to the establishment of an “international democracy”, the idea of peace through law only becomes conceivable with the neutralization of the differences between domestic and international spheres and the renunciation of the traditional principle of the sovereignty of the state. In fact, by consecrating a plurality of powers as “supreme”, the principle of sovereignty undermines any possibility of regulation by law.14 The primacy of international law necessitates the submission of state juridical orders; it justifies itself essentially by the fact that it reflects the unity of mankind, an idea that goes back to Christian Wolff’s civitas maxima and ultimately to the Roman ius gentium.15 The primitive state of international law must then be corrected by the creation of a legal authority that seeks to interpret and enforce the application of the law in a binding way. Finally, in order to affirm its normative character, the international legal order must provide for a sanctions mechanism that allows the use of coercive means to instil respect of
the law.\textsuperscript{16} Thus Kelsen understands the ethical notion of just war as the foundation of the legal nature of international law, even as a precondition of its effectiveness.\textsuperscript{17}

For all their differences, the doctrines of Scelle and Kelsen both rest on the demands of international solidarity and, in particular, on the willingness to empower individuals and communities by restraining the power impulses of states. It is hardly surprising therefore, that from 1990 on, their ideas gravitated to the centre of attention again. The defeat of communist ideology, the atmosphere of suspicion surrounding the state (and hence, the principle of sovereignty) and the consequent revival of the debates on the rights of the person, of minorities, of peoples, on the “right of inference” and on the process of institutionalization of international relations, all contributed to the topicality of Scelle’s and Kelsen’s thinking, just as they have worked to revive pluralist theories inspired in particular by the work of Cole and Laski in the second decade of the twentieth century.\textsuperscript{18}

In a theoretical perspective, the revival of the ideals contained in this type of doctrine can also be understood as a radical challenge to the Soviet doctrine of international law. This tradition, associated with the figure of G.I. Tunkin, rested on a voluntarist conception of international law championing highly traditional conceptions of sovereignty. Indeed Tunkin explicitly attacked the “bourgeois” doctrines of Kelsen and Scelle when he wrote that “projects to create a world state and the calls for the abolition of state sovereignty objectively reflect the tendencies of the imperialist powers to try to use international organizations for their own reactionary aims.”\textsuperscript{19}

Carl Schmitt was arguing along comparable lines during the inter-war period, when he criticised the detrimental influence of juridical discourses inspired by the Kantian project:

When a state fights its political enemy in the name of humanity, it is not a war for the sake of humanity, but a war wherein a particular state seeks to usurp a universal concept against its military opponent. At the expense of its opponent, it tries to identify itself with humanity in the same way as one can misuse peace, justice, progress and civilization in order to claim these as one’s own and to deny the same to the enemy. The concept of humanity is an especially useful ideological instrument of imperialist expansion, and in its ethical-humanitarian form it is a specific vehicle of economic imperialism.\textsuperscript{20}

In seeking to expose the political risks underlying such discourses, Schmitt showed that from this perspective, neither positive law nor “rational” or “natural” law could be considered neutral, and the political implications of a global rule of law should therefore be carefully investigated. Either it refers to existing positive laws and law-giving methods, in which case we are merely
looking at the legitimization of a specific status quo; or it appeals to a higher or better law (natural law, law of reason). In this latter case, Schmitt wrote, it 'signifies the rule and sovereignty of men or groups who can appeal to this higher law and thereby decided its content and how and by whom it should be applied.'

It must be conceded that in much writing influenced by either anti-positivist or anti-voluntarist conceptions of law, the question of the entities called upon to determine the content and interpretation of the norms of reference (quis judicabit) has been neglected. Serge Sur, addressing the issue of a transcendence of the state, distinguishes between optimistic and tragic implications. In the optimistic version, it may lead to the progressive realization of a cosmopolitan federalism; a perspective referring back to the normative and solidarist ideals of Kelsen and Georges Scelle. In this scenario,

The return of the judge does not express a minimalist conception of the law, because the legalization of social life can be extremely complex; instead, it articulates a conception that is reactive rather than active, based on natural law rather than voluntarist, ethical rather than statist.

The tragic scenario, on the other hand, may entail a return to the state of nature and the rule of power, especially once the principle of the sovereign equality of states has been discarded.

Effectively, the two outcomes have been projected on separate categories of states according to their political structure and ideology. This suggests a hierarchy of legitimacy between a zone in which Kantian liberalism has been realised, and one beyond it. In the words of Benedict Kingsbury, "the theory of liberal and non-liberal zones proposes differential treatment where boundaries of the liberal zone are crossed, conferring privileges based on membership in the liberal zone, and setting high barriers to entry."  

In law, this tendency would be realised by the application of international norms according to a criterion of political legitimacy; a perspective long suspect because of its "imperialist" implications. Recently, however, thinkers such as John Rawls have turned to distinguishing between well-organised societies (democratic or hierarchical) and those that are not. Like Jürgen Habermas, who has come up with comparable distinctions, Rawls considers this in light of the need to universalise human rights. These thinkers aim to justify a right of humanitarian intervention, for which the principle of state sovereignty must be sacrificed to individual or collective rights.

Today, the willingness to rethink the international order according to criteria of political legitimacy is evident in the desire to create a caucus of democratic states within the UN, although the aims of such a division are rarely made
explicit. In the context of the war on terrorism, however, arguments in favour of the introduction of a double standard have been made with reference to a new “liberal imperialism”. In coining this phrase, EU policy adviser Robert Cooper has argued in favour of the European model of peaceful expansion, “on the basis of laws and open cooperative security.” Only “when dealing with more old-fashioned kind of states outside the post-modern continent of Europe, we need to revert to the rougher methods of an earlier era—force, pre-emptive attack, deception, whatever is necessary to deal with those who still live in the nineteenth century world of every state for itself”. Despite his obvious intention to demarcate a European approach, Cooper’s arguments have not laid to rest suspicions concerning the motives behind the differential legitimacy approach. In fact the experience of European integration has given rise to more legalist critiques of state independence and sovereignty. But the perspective of decoupling law from the principle of state sovereignty wholly or partially, continues to elicit certain reservations and poses the question as to the coherence and effectiveness of “stateless law”. This I turn to in the next section.

**Cosmopolitan or Ethnic Democracy?**

Confining myself to the consequences for the principle of sovereignty of arguments for a cosmopolitan democracy, I will argue that they approximate the consequences of *integral federalism*, even though the motives and the politics of the two models are different in many respects. For the proponents of integral federalism, the aim is to give the principle of self-determination pride of place in order to hasten the demise of the model of the sovereign state in Europe and replace it with “ethnic” democracy. For the advocates of a cosmopolitan-inspired democracy, it is the exercise of power itself which must be rethought in order to allow political citizenship in the European Union to be fully exercised. A dissolution of the different aspects of sovereignty also occurs this framework. This leads, given the primacy accorded to the law, to a weakening of the positivist and voluntarist model.

**“Ethnic Democracy”: A Europe Respectful of Its Nations**

“Integral federalism” (as opposed to political federalism which still rests on a traditional conception of sovereignty) is inspired by pluralist theories that deny the principles of the unity and indivisibility of state sovereign power, as well as the principle of its exclusive competence and its competence “in the last instance”. According to Guy Héraud:
It is the only doctrine that surmounts the contradictions of statism, and which unites two natural polarities in one simple dialectic: the centripetal and the centrifugal, social discipline and the autonomy of subjects, order and liberty.\textsuperscript{28}

By acknowledging the multiplicity of social groups and sectoral collectives, integral federalism produces a harmonious law in which the duality of internal and external order disappears, as the “state-nation” “returns to infra-national entities their confiscated autonomy and transfers to international institutions the powers they demand.”\textsuperscript{29} Thus every entity receives the powers that derive from “its proper nature” and the “principle of adequacy”. In a decentralised federal system, the principle of subsidiarity is then called upon to play a determining role in relation to the distribution of competences.\textsuperscript{30} In this framework, self-determination is a central and predominant concept. It can be further broken down into a principle of self-affirmation (who are the members of the community of reference?) and a principle of self-definition (according to which criteria?). Authentic democracy implies in addition a principle of self-organization (what status?) and self-management (which goes back to the right to self-government).\textsuperscript{31} The right to self-determination therefore naturally and logically precedes democracy. In Héraud’s words,

Ethnic democracy is the regime where each people choose their state of belonging—whether this be a sovereign state, as it is today, or a member state in a federated world, as it will be tomorrow. It is evident that there can be no democracy if a people or a group of a people are enclosed in a state that it did not choose and in which it is dominated, be it with kindness, by another people. These considerations lead to an important truth: the self-determination of peoples precedes internal democracy.\textsuperscript{32}

Backing up his advocacy of a Europe of the regions by standing as a candidate for European elections,\textsuperscript{33} Héraud has welcomed the reduction of the levels of power, their autonomy and the emancipation of sectoral collectivities as positive contributions to the dissolution of the political into the social and to the withering away of the state.

**Cosmopolitan Democracy: A Europe Respectful of the Values of Citizenship**

At the basis of most of the recent developments of these political-philosophical doctrines lies the realization that democracy, once inserted into a state framework, becomes more and more of a formality. The nation-state no longer has the capacity to impose its exclusive authority, to control its population and to turn the latter into an authentic “deliberative community”, because this
community now comprises transnational actors as well. Hence the quest for a better adapted political framework for the exercise of rights and liberties is in order. Politics, if it is to be authentically deliberative, can only emerge as a reality from the interaction between the political system and public space; therefore, as Philippe Gérard puts it, “the discursive and intersubjective conception of sovereignty implies a decentred vision of society... supplanting all reference to a unified sovereign subject (the state, the people) by interaction between political institutions and civil society”.

We should therefore, in this perspective, abandon the dangerous and problematic utopia that the political can be thought of as a hierarchical order. Order, Bertrand Badie has argued, “no longer depends on a more or less imagined verticality, but on the irradiating effect of every decision, even the smallest.” Responsibility, rather than sovereignty, becomes the focus of politics, and the consequences of an action rather than the submission to a fixed hierarchy, are what determines its rationality. “Good governance” hence becomes less the result of the relations of authority between vertical administrations, than of the horizontal coordination of social sub-systems and sectoral cooperation. In this framework, the organization of authority conforms to a criterion of functional diversity. The emergence of this “deteritorialised” political space is therefore not due to its being part of a model of unique and indivisible sovereignty. Indeed, in Habermas’s view, the postulate of the national interest erodes as the effects of a decision in light of global governance take precedence.

This systemic transformation suggests restraint when it comes to turning Europe into a sovereign super-state again. First and foremost, the aim must be to develop a public space governed by the principle of the rule of law, but without a state. A common sovereignty (anchored in several demoi) would thus engender a cosmopolitan law that no longer aims to assure the rights and liberties of states, but the positive rights of citizens—in Europe and the world. It does this by anticipating that above and/or despite the state, these rights will be guaranteed by the existence of procedures and institutions capable of applying and imposing them. Jacques Commaille understands this tendency as a quasi-metaphysical pursuit: societies search for new models and for a novel rationality, as suggested by the calls for law-abiding states, or the pervasiveness of the notion of “contract”. The juridical management of social relations under this new “meta-reason” would be part of a general model of “permanent negotiation” governed by an “ethics of discussion”. The notion of multiple loyalties enshrined by such concepts coincides with the European project; it aims to turn each individual into a citizen of his/her home state and of the European Union. Postulating such an ontological diversity, and given that individuals and groups interact and thereby build a certain social order, implies
the advocacy of pluralism; the political and juridical dimensions of such a pluralism break with a monist conception of law and the hierarchical model on which the authority of the sovereign state rests. Instead, organised civil society, “actors” or “clients”, are called upon to play a role at two levels (that of the elaboration, and that of the implementation of public policy) in order to mitigate the shortcomings of the classical model of representation. Thus they impart a degree of legitimacy to the system. A new type of law thus has to recognised; a type of law that rests on the right of every person (“party”) potentially affected by a decision to submit his/her comments, and on the obligation, for the decision-maker, to respond. This would express a more procedural than instrumental conception of the law.43

Critiques of Cosmopolitan or Federalist-inspired Law

The developments put forward by those doctrines most inclined towards cosmopolitan or federalist ideas have been criticised on the basis of sometimes very different considerations and motivations. For some, these doctrines contribute to international disorder; for others, accepting a new interpretation of sovereignty supposedly more effective in guaranteeing individual rights and democratic liberties (including those beyond states), is evidence of an erroneous assessment of the evolution of the international situation, or worse, a suicidal utopia.

Georges Lebel, for one, argues that the development of normative sub-systems portending to be autonomous as well as the proliferation of international standards (such as soft law) are seen as undermining the unity of the international order by introducing a new form of “legal feudalism”.44 André-Jean Arnaud claims that interactions between the “global” and the “local” lead to a weakening of the state and simultaneously, to a “segmentation of juridical reason hitherto normalised and legalized on the basis of national sovereignty.”45 For this reason, legal norms are perceived more and more as resources solicited and shaped by actors according to their needs and existing power relations. But this would lead to a post-modern legal theory which, in the words of Commaillé, would entail “the destabilization, the loss of foreseeability and of ‘calculability’ [of the law] that would threaten the essential attributes of rationalization according to Max Weber.”46 The problems which such a transcendent and absolute normative order would give rise to, and which would produce a law that is both soft and inconsistent, have worked to constrain state actors otherwise keen to emphasise the “sovereignty of law”.47 Indeed, it is generally believed that an evolution in this direction would indicate that the functions traditionally handled by a juridical system based on a “formal and rational”
positive law can no longer be fulfilled. Hence if states, European states in particular, tend to privilege the law, then this is precisely with regards to the traditional functions that the law can fulfil in relation to the legitimization of states’ power.

The notion of a “suicidal utopia” refers to the work of Simone Goyard-Fabre. For her, the model of “society against the state”, and the dismissal of the channels of political authority and of the sovereignty of power, ends up in a pluralism without limits, from which no new conception of political law can emerge. Indeed the question of authority and power, which the principle of sovereignty has attempted to define throughout its development, thus becomes confounded again in a conceptual haze. As a number of empirical analyses of global governance have brought to light, the issue of the hierarchy between actors is often neglected. Often the exercise of political power is confused with forms of authority exerted by certain actors on others. Thus, the notion of governance, highly valued by critics of the notion of sovereignty, has come under fire for its “technocratic tropism and pretence to govern by excluding politics, through a market-like mode of decision-making”. But as Ali Kazancigil argues, “democratic politics is about the representation and the mediation of general interests; the market concerns only exchange and negotiation between sectoral interests”. On a conceptual level, this approach starkly poses the question of how, and not really that of why. A “managerial” perspective easily shirks from the analysis of socio-political interests, relations of power and hegemony, and political conflicts.

In any case, the system founded on sovereignty continues to function according to its own logic in practice in many respects; in particular between states who benefit the most from their rights as sovereigns. If today, “extra-sovereign” processes are operative and lend credence to a post-sovereign reality, this does not yet mean that they have replaced the system based on the principle of sovereignty already. Also, contemporary changes are arguably not truly substantial, neither with regard to political organization nor in relation to legal issues; it is perhaps more realistic to acknowledge that “the transnational coincides with the phenomenon of states, and vice versa”. Robert Keohane relies on the distinction between zones of different political legitimacy when he writes, in this respect, that “in the zone of peace, characterized by complex interdependence, sovereignty will become more a resource to be traded off in exchange for partial authority over others” policies than a set of barriers to intervention.” In the “zone of conflict”, on the other hand,

the traditional function of sovereignty—to clarify boundaries, institutionalize practices of reciprocity, and limit intervention—will probably be more salient than its use as a source of bargaining over issues involving transnational
networks. Global institutions, designed to deal with the zones of conflict, will only incrementally be able to alter traditional conceptions of sovereignty, since the danger that sovereignty was invented to deal with—chronic, ideologically justified intervention—will remain prominent.\textsuperscript{54}

The uncertain meaning of sovereignty thus remains. In some circumstances it is a norm we are interested in maintaining, in others it presents itself as an obstacle to be overcome. Certainly this does not mean that the international order is static or that the Westphalian system would not susceptible to tensions, or even in need of replacement.\textsuperscript{55} But it does appear that there is no proper consensus on the reach and meaning of a new world order governed by the methods of “good governance” (as it emerges from the field of economics) and legitimated by reference to the principle of responsibility (as emerging from the field of ethics).

\textbf{Conclusion}

The idea of turning a legal system into a referential order that makes the harmonious coexistence of peoples possible in a society in which interdependence calls for heightened solidarity and co-operation, is not new. The idea takes on diverse forms depending on the ideological convictions of its advocates. It comes therefore as no surprise that these rival visions have produced a range of conflicting views on the concept of sovereignty. These have either sought to demonstrate the central role of sovereignty in the effective functioning of international society, or to pinpoint the risks brought about by a system where its traditional role is being challenged by the primacy accorded to the nation (in the “ethnic” version of democracy) or to law (in the normativist version), relative to the state.

For Max Weber, it was already clear that the transposition of the logic of modern law to the relations between states and the implied limitation on sovereignty, which was based on values claiming to be universal, could not surmount the irrationality of domination. On the contrary, it would favour the outbreak of a “war of the gods”.\textsuperscript{56} For the “sovereignists”, the only way to avoid this imminent confrontation is to ensure that the state remains the exclusive interface between the internal and international spheres. This is a condition both of the effectiveness of international norms and of their legitimacy in a world that, quite obviously, does not share the same set of values and does not function according to a common ideological mode.

In order to thwart the critiques of these attempts to reactivate a form of law transcending states, it has been suggested that they might be accompanied by certain guarantees. These can generally be found in reflections on the
development of an ethics of discussion that could be implemented within multilateral institutions. But as Jürgen Habermas has averred, in certain situations (such as the one currently arising from the war on terrorism) this solution would be absurd.

The idea of an ethics of responsibility is sometimes also called upon to fill the void left behind by the marginalization of sovereignty. At any rate, the model of governance that would tend to replace it, by establishing a form of polyarchy (weakly institutionalised at the international level), does not seem conducive to establishing a political responsibility. In certain situations, it effectively is difficult to identify the pertinent level of power for decision-making, as proved in the case of the war against Yugoslavia over Kosovo. In an intricate and complex political configuration, political responsibilities rather tend to attenuate and difficult to attribute unequivocally. In the situation that arose from the attacks of September 11th, on the other hand, the American President and his former Secretary of State Colin Powell were well served by the argument that the particular responsibility that fell upon the United States as the sole superpower, gave it a status of exception allowing it to free itself from the constraints weighing on other states. This misguided form of an ethics of responsibility indirectly legitimizes the politics of double standards in relation to the application of the law mentioned above. In this case, we are back in a legal regime resembling that of the nineteenth century, in a period when legal norms were applied depending on the degree of civilization and at the discretion of a handful of powers.

Translated from the French by Susanna Rust

5. O. Corten and P. Klein, Droit d’ingérence ou obligation de réaction? (Brussels: Bruylant, 1996), pp. 221-222. This intervention must, however, always respect the prohibition against the threat or use of force as stated in art. 2 §4.
10. *Ibid*.
26. This idea is already taken up by J. Rawls, *Les droits des gens, op.cit.*, p. 82; an initiative of this type is supported by the European Parliament, *Report on the relations between the EU and the UN* (2003/2049 (INI)), December 16, 2003, p. 24.
33. First and foremost, of course, Professor at the Strasbourg Faculty of Law
39. Habermas, *Après l’État-nation…*, *op. cit.*, p. 123. However, Habermas distances himself from certain "post-modern" proposals because of their convergence with the neoliberal model: *ibid.*, p. 88.
46. Commaille, "Normes juridiques…", *op. cit.*, p. 16.


52. See also Eric Hobsbawn, Les enjeux du XXIème siècle (Brussels: Complexe, 1999), especially pp. 52, 72.


59. The attempt to establish the appropriate level of power in the decision-making concerning the NATO operation against the Federal Republic of Yugoslavia proved to be extremely complicated, see my “La decision de recourir à la force contre la Yougoslavie: quels niveaux de pouvoir? Quel rôle pour l’Europe?” in Corten and Delcourt, Droit, légitimation et politique extérieure..., op. cit., pp. 31-48.