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EDITORIAL

African challenges and challenges to African Studies

Tanya Lyons
Flinders University
editor@afsaap.org.au

Max Kelly
Deakin University
co-editor@afsaap.org.au

The articles in this issue of ARAS offer very unique views on a range of issues that are relevant to the countries of Africa - the legacies of sexualized violence in conflict; suggestions for preventing conflict; human development; sovereignty and the role of international political and economic imperatives; and the way we understand 'world music' in the age of globalization.

In the article *Sexual Violence in the Congo Free State: Archival Traces and Present Reconfigurations*, Charlotte Mertens presents her extensive archival research conducted in Belgium, and ethnographic research conducted in the eastern region of the Democratic Republic of Congo (DRC). Mertens brings to light the ghosts of the past, still haunting this central African nation. Her focus on sexual violence during King Leopold's Congo Free State, and more recently as a result of the ongoing conflict in the DRC, draws our attention to the ongoing legacies of sexualized violence, in particular against women. Mertens argues that this current violence is intricately connected to the colonial past, and is unfortunately enduring into the future.

Obinna Franklin Ifediora argues in his article *Preventive Arbitration: Towards Strengthening the African Union's Mediation Capacity for Human Protection*, that the African Union Commission could strengthen its conflict resolution and pacifying mechanisms through 'preventive arbitration', thus offering the many stakeholders, minority and opposition groups access to relevant and timely mediation, creating enduring peace and human security. Ifediora argues that the African Peace and Security Architecture (APSA) needs to be restructured to bring 'mediation' into the role of the African Governance Architecture,

Zimbabwe's Fast Track Land Reform Programme: Beyond Emancipation, Towards Liberation

Tinashe Jakwa

The University of Western Australia
21113684@student.uwa.edu.au

Abstract

In this article I critique conventional understandings of the international relations' notion of juridical sovereignty. I argue that these understandings mask the fact that juridical sovereignty is a central governing rationality used to undermine the national self-determination of peripheral 'postcolonial' states. Independence has not resulted in the formation of an international community of equal sovereign states. I provide an alternative reading of juridical sovereignty and make a distinction between juridical independence and juridical sovereignty. This article is informed by the decoloniality perspective and draws from the works of Denise Ferreira da Silva and Sylvia Wynter—black women pioneers of the decoloniality framework—to argue that juridical sovereignty is rooted in Western modernity's conception of Man and, therefore, stands in direct and irreconcilable opposition to the juridical independence and self-determination of African states and peoples. The case study of Zimbabwe's Fast Track Land Reform Programme highlights how tensions between juridical independence and juridical sovereignty have affected the country's international relations and nation-building post-independence. This, in turn, highlights the challenges juridical sovereignty presents to the 'postcolonial' state.

Introduction

Juridical or state sovereignty is conventionally understood to represent the idea that "the state is subject to no other authority and has full and exclusive powers within its territory" (Barnett, 1995, p. 82). Sovereignty in this sense is assumed to mean that there is "mutual restraint", and a "live and let live policy embodied in the principle of non-interference" (Barnett, 1995, p. 82). It presupposes the existence of an international community of equal sovereign states, and denotes independence from outside forces. A state does not need to have internal legitimacy for its juridical sovereignty to be recognised.

The second conventional understanding of the notion emerged in the post-Cold War era, and emphasised the need for the presence of empirical or popular sovereignty to underpin the recognition of juridical sovereignty. These constructions of juridical sovereignty are flawed, but it would be mistaken to use the Peace of Westphalia of 1648 as a point of departure for critiquing them. A better place to start is 1492, when European colonisation of the ‘Americas’ was set in motion. As will be discussed, this can be seen to properly mark the birth of the modern nation-state and attendant ideas about sovereignty, ideas that privilege white subjectivities.

The Peace of Westphalia is the name commonly used for the treaties of Munster and Osnabruck signed in 1648 to end the Thirty Years War after five years of negotiation. The war was both a religious war between Protestant and Catholic states and one for hegemony between the great powers of Europe. The 1648 Peace of Westphalia is generally argued to have institutionalised the notion of juridical sovereignty, the idea that “in a system of sovereign states, each recognises the others as the final frontiers of authority within their given territories...” (Croxtton, 1999, p. 3). Croxtton (1999), however, argues that “sovereign states existed at a time when few statesmen had anything like the modern conception of sovereign equality as the founding notion of the international system” (p. 3). They existed before the signing of the 1648 Peace of Westphalia, and this was so despite several states having been under imperial domination both before and after the signing. Croxtton’s argument highlights that juridical sovereignty has always been restricted in practice, with the power to bestow it resting in the hands of imperial powers. He does not, however, determine a single point in time as marking the formation of the modern nation-state and its attendant notions of sovereignty. His main preoccupation is with arguing against the overvaluation of the 1648 Peace of Westphalia, because he believes modern notions of state or juridical sovereignty had already been established prior to it. For Croxtton (1999), juridical sovereignty, “rather than being an idea that was historically constructed and then applied...emerges as an historical fact that was gradually recognised by statesmen and eventually acknowledged as reality” (p. 4), resulting in its expansion to those formerly denied it. Viewing sovereignty in this way, however, masks the fact that state sovereignty *is* historically constructed, with different societies determining its limits, which can be subject to contestation.

Whilst Croxton recognises that juridical sovereignty is a norm of international law and that the 1648 Peace of Westphalia did not play as big a role as generally thought in its institutionalisation, he does not acknowledge colonialism as central to its development. Understandings of sovereignty were shaped by colonial encounters. Non-European peoples were, by definition or necessity, excluded from the realm of sovereignty. This exclusion was initially premised on religious difference, but became racialised with the advent of western secular humanism and the enslavement of black peoples for capitalism's ends (Wynter, 1995, p. 14). The definitional or necessary exclusion of the latter from the realm of sovereignty was a way of justifying their subjugation. Thus any analysis of sovereignty that focuses exclusively on Europe, without examining how Europe saw itself in relation to those external to it, does itself a disservice. The form of the modern nation-state was constituted in opposition to non-white, non-European peoples and it cannot be divorced from this foundation; meaning that it is necessary to move beyond it. I will argue that, despite the facade to the contrary, juridical sovereignty is in fact a central governing rationality used to negate peripheral states' sovereign status and enable indirect rule by the centre of the periphery. Traditional understandings do not acknowledge how the colonial roots of the norm continue to shape states' international relations today.

Conversely, empirical or popular sovereignty is the notion that states maintain order within their borders, which "is generated not only through coercive mechanisms but also with...consent and legitimacy from society" (Barnett, 1995, p. 82). A state's exercise of empirical sovereignty "does not mean the state is able to ensure complete compliance with its laws, but that it has the capacity to govern society and to maintain domestic order" (p. 82). Nowadays, the recognition of a state's juridical sovereignty is said to depend upon the presence of empirical sovereignty. However, in practice juridical sovereignty as a central governing rationality is utilised by the centre to prevent the realisation of empirical sovereignty in the periphery. The recognition of formerly colonised states' juridical sovereignty on the condition that they accept colonial borders and organise their societies and economies along neoliberal lines, despite neoliberalism's institutionalisation of further underdevelopment in these states, is indicative of this function of juridical sovereignty.

In Zimbabwe, for instance, the Lancaster House Constitution of 1979 mandated the preservation of twenty parliamentary seats for whites and

curtailed substantive land redistribution. It institutionalised market-based willing-seller/willing-buyer redistribution strategies that maintained the white capitalist class's economic power, because most of the arable land remained under white-minority British/ Rhodesian control. It also undermined the realisation of empirical sovereignty by privileging juridical sovereignty, because the new black national elites had to appease the former colonial power, Britain, in order to gain assistance in rebuilding the nation and to become independent in 1980.

The Rhodesian government's 1965 Unilateral Declaration of Independence (UDI) also highlights the need to problematise sovereignty and to understand the fraught nature of independence in the context of African states. The declaration prevented the realisation of empirical sovereignty, because when colonial rulers declare independence for a racial minority it serves to reinscribe that minority as the only group endowed with the ability to be self-determining (Musvoto, 2009, p. 155). Whilst the Rhodesian government in many ways sought to sever its ties with the metropolis, its British colonial roots could not be denied. When the Second Chimurenga¹ was fought in the late 1960s by black liberationists, they were not only fighting against Rhodesia as a self-proclaimed independent state, but against Britain, the progenitor of the Rhodesian state(s). Continuities can also be seen between the nature of the Rhodesian UDI and Zimbabwean juridical independence, achieved in 1980. Both serve(d) minority interests at the expense of the majority, further perpetuating modernity and its racialised logic. The Rhodesian UDI did not strive for de-imperialisation and the end of authoritarianism, and the same can be said of Zimbabwean juridical independence given the many restrictions it was subject to.

Conventional understandings of juridical sovereignty, therefore, do not speak to how the notion is *utilised* by states. In this sense, there is a distinction to be made between juridical *independence* and juridical *sovereignty*. The former denotes the end of *direct* white minority rule and the beginning of indigenous rule and nation-building, rule that *should* remain free from outside forces. This understanding does not

¹ The First Chimurenga (or uprising) took place from 1896-97, in both Matabeleland and Mashonaland, due to local grievances wrought by colonisation and the British South Africa Company's role thereof. The Second Chimurenga was the liberation struggle which began after 1965 when Rhodesia made its Unilateral Declaration of Independence from Britain, eventually resulting in Zimbabwe becoming a juridically independent state in 1980 after a 15 year armed struggle.

include Rhodesia's UDI, because both pre- and post-1965 Rhodesian rule were cases of colonial rule. On the other hand, juridical sovereignty (in practice) is the recognition by external actors of a regime's right to rule over or on behalf of its populace *in accordance with those actors' interests*. The centre's—the West, due to its global hegemony—recognition or lack thereof of peripheral states' juridical sovereignty carries more weight than the latter's recognition of each other's, reflecting the unequal distribution of power in the international system. The power to uphold or bestow sovereignty is held by the centre. This means a state can be juridically independent or self-governing, which was the case for the majority of African states upon achieving independence, but lack juridical sovereignty. In other words, African states' ability to govern in ways that allowed for the realisation of their empirical sovereignty in their own nations is undermined. This is why, in the post-independence period, juridical independence has largely benefitted national elites to the detriment of the people.

Juridical sovereignty helps reinforce national ruling elites' self-serving vanguardism with, for example, the Zimbabwean African National Union-Patriotic Front (ZANU-PF) presenting itself as the nation's rightful ruler due to the leaders having fought in the armed liberation struggle. Juridical independence was, therefore, emancipatory not liberatory, as will be shown below. Furthermore, the fact that the Rhodesian government was ostracised by Britain upon unilaterally declaring independence in 1965 is not indicative of the non-recognition of the former's sovereignty by Britain, not in the same *sense* as with Zimbabwean juridical independence. At the time of the UDI, many African peoples were in the process of decolonising and gaining independence. Accepting the UDI would have compromised Britain's position in an international system vis-à-vis the United Nations, which was seemingly extending sovereignty to the (formerly) colonised (Warson, 2015, p. 38). Under modernity, however, whites are the only ones endowed with sovereignty (to be discussed in further detail in the next section), so Britain was merely disciplining a rogue dominion governed by *self-determining subjects* as a means of safeguarding its international standing. Rhodesian elites were simply looking for greater autonomy in their policy-making in order to implement harsher colonial policies against the black majority, policies that Britain had curtailed prior to 1965 largely due to the international community's "changing" attitudes towards colonial violence (Musvoto, 2009, p. 155). Rhodesia's UDI was not an instance of a subjugated majority asserting its humanity

and self-determination in the face of the denial of same, unlike Zimbabwean juridical independence. However, given that Britain could not support Rhodesia's UDI, it restricted the options available to Zimbabwe's new black elites upon becoming juridically independent in 1980, as a means of safeguarding both its own power and that of Rhodesian authorities and whites more generally.

Juridical sovereignty is generally conflated with juridical independence, to which the notion of non-interference applies. This hinders the recognition of the tensions between juridical independence and juridical sovereignty, whereby the latter is utilised to undermine peripheral nation-building and self-determination. In the post-Cold War era, as stated above, the recognition of states' juridical sovereignty is said to be contingent upon the existence of empirical sovereignty, but as I will demonstrate below in a discussion of Zimbabwe's Fast Track Land Reform Programme, peripheral states are pressured to organise themselves in line with external or central interests, which seek to empower specific groups and classes. While held out to be necessary for the realisation of empirical sovereignty, it in fact undermines it. It is not the case that African states' and peoples' sovereignty is recognised in the post-independence period, with the latter simply the subject of various ongoing external interventions which undermine their self-determination. The distinction between juridical independence and juridical sovereignty highlights that the sovereignty of African states and peoples *has never been recognised and can never be recognised* under modernity. The shortcomings of juridical independence will also be shown below. All of this will be further illustrated by drawing from Sylvia Wynter (1984; 1989) and Denise Ferreira da Silva's (2001; 2009) pioneering work on the logic of modernity. The choice to use their works is a deliberate one, given they are black women scholars whose work, particularly that of Wynter, on the coloniality of power, being and knowledge tends to be overlooked despite having laid the groundwork for the decoloniality perspective. It is a strategic choice for an article arguing against the overvaluation of particular subjectivities.

Juridical sovereignty and the logic of modernity

The term 'coloniality of power' is what Quijano (2000) uses to refer to the racial "social classification of [the] world population – expressed in the 'racial' distribution of work, in the imposition of new 'racial' geocultural identities, in the concentration of productive resources and capital, as social relations, including salary, as a privilege of

‘Whiteness’” (p. 218). Quijano argues that the most significant aspect of modern social relations is “the emergence of a Eurocentred capitalist colonial/modern world power that is still with us” (p.218), despite direct colonial rule having ended in most places. The term ‘coloniality’ allows for an understanding of the continuity of colonial forms of domination into the present day. Quijano’s work builds on the theoretical works of black women like Sylvia Wynter, who have examined the coloniality of power since the 1970s. It details the economic processes and mechanisms that characterise and reinforce Western hegemony: large scale land dispossession, slavery and serfdom. Quijano addresses how these processes were “deliberately established and organised...to serve the purposes and necessities of capitalism” (p. 218). His work helps us to understand land dispossession in Zimbabwe (and Southern Africa more generally) as a consequence of the institutionalisation of racist Western epistemologies, which Wynter challenges in her work.

Wynter (1984) examines the modern conception of ‘Man’ and its overvaluation of white subjectivities, through the colonisation and enslavement of non-white peoples. ‘Man’ is a signifier for Whiteness and the structures and processes of domination thereof, which include the construction of non-white, non-European peoples as lesser and outside the realm of sovereignty. Wynter pinpoints the epistemic basis of juridical sovereignty, identifying 1492 and the subsequent colonisation of the ‘Americas’ as representing the birth of the modern nation-state as one constituted in opposition to non-Europeans’ existence, except as agents of capital. Not only was religion important in justifying the subjugation of indigenous peoples in the ‘Americas’, but over time race also became necessary for the maintenance of the emerging capitalist system, an emergence characterised by conflict between the great powers of Europe. Wynter (1995) argues that this occurred “in the overall context of the secularisation of the human Subject – one whose mode of being would be no longer guaranteed by the “higher system” of the divinely sanctioned [myths and theologies]” (p. 22). Thus today, in challenging claims that all that is required is the *reformation* of the present white supremacist global capitalist system, we must challenge “the tradition of discourse to which [these claims belong]: that is...the tradition on whose basis, from 1512 onward, Western Europe was to effect the first stage of secularisation of human existence in the context of its own global expansion and to lay the basis of the plantation structure” (Wynter, 1989, p.4).

Whereas Quijano addresses the coloniality of power and the economic processes thereof, Wynter focuses on the coloniality of being and knowledge. As Maldonado-Torres (2007) states,

the idea [is] that colonial relations of power left profound [marks] not only in the areas of authority, sexuality, knowledge and the economy, but on the general understanding of being as well. And, while the coloniality of power [refers] to the interrelation among modern forms of exploitation and domination (power), the coloniality of knowledge [has] to do with the impact of colonisation on the different areas of knowledge production, coloniality of being...[makes] primary reference to the lived experience of colonisation and its impact on language (p. 242).

Juridical sovereignty understood as the right of national elites to rule over or on behalf of their populaces *in accordance with external actors' interests*, therefore, reinforces the coloniality of power, being and knowledge.

In her own work, Silva (2009) looks to understand the logic underpinning liberal thought and the formation of the modern nation-state in Europe. She focuses on what she calls “necessitas” or necessity, which, “as a figuring of violence, a signifier of determination, preponderates in the assemblages of the theatre of reason found in seventeenth century writings of scientific and juridical universality” (p. 5). In these writings, reason or rationality signifies a “universal power that operates without, and...the mind (the rational thing) retains self-determination, alone occupying the seat of decision (judgment) in knowledge and political existence” (p. 5). This mind is that of the white subject, who is constructed as the only one capable of and bearing the right to determine, judge or resolve “the rules through which universal reason governs” and “the motions of things and actions of human beings” (p. 5). For John Locke (1894), power lies in this ability of the mind, which “afford[s] us...a notion of ‘passive power’” (cited in Silva, 2009, p. 5). If the power to determine outcomes and change the world resides with the mind, then the body’s ability to do the same is disavowed. Active power resides with the mind and passive power with the body, which is pathologised. In other words, the white subject is the only one capable of making (right) decisions about the organisation of

the world, with non-white subjects the passive recipients of those decisions. The requirement that African states maintain colonial borders upon becoming independent, disavowed African peoples' ability to make decisions about their 'postcolonial' modes of organisation, and the modern nation-state held to be the only valid political body (outside of multilateral institutions). The Lancaster House Constitution of 1979's reservation of twenty parliamentary seats for whites and its prevention of substantive land redistribution when Zimbabwe became independent, further highlights this overvaluation of the white subject and devaluation of non-white peoples who are made the objects of white decision-making.

Silva (2009) argues that the main task faced by early writers of "juridical universality" was that of "locating law and state in *necessitas*, as framings of universal reason as violence" (p. 6). Law and the state have the power to reconstitute the borders of self-determination, but they do so without subverting that of the mind. Indeed, they preserve it. In Thomas Hobbes' work, people move out of the anarchic state of nature out of recognition of the necessity of law and the state. It is the mind which recognises this. Hobbes (1957) thought that,

the final cause, end, or design of men (who naturally love liberty, and dominion over others) in the introduction of that restraint upon themselves...is the foresight of their own preservation...that is to say, of getting themselves out from that miserable condition of [war], which is necessarily consequent (as [has] been shown) to the natural passions of men, when there is no visible power to keep them in awe, and tie them by fear of punishments to the performance of their covenants, and observation of [the] Laws of Nature (p. 87).

The preservation of the state is, therefore, the preservation of the mind (of the white subject). Law and the state are established against or in opposition to "savage" others who form "the negative but interior ground on which the force of law stands" (Silva, 2009, p. 7). The two, therefore, reconfigure themselves against these racialised others whose "bodies signify something that seems to escape all that should be comprehended by the Enlightenment notion of humanity, and its onto-epistemological descriptors, namely universality and historicity" (p. 10). Liberalism "produces the racial subaltern subject as a mind that cannot

occupy the seat of decision” (p.10) through the formalised hierarchical categorisation of people. Thus “raciality institutes an ethico-juridical position that belongs in the stage of exteriority, one which post-enlightenment articulations of universality and historicity fail to comprehend” (p.10). Non-white subjects are by definition, or necessity, excluded from the realm of sovereignty, existing external to it as bodies to be acted upon by the white subject as he/she works to preserve his/her life.

The critique of conventional understandings of juridical sovereignty given in this paper reveals that they mask the truths about juridical universality that Silva, Wynter, and Quijano expose. It aptly illustrates how raciality informs “the juridical architectures and procedures of the global present” (Silva, 2009, p. 14). Juridical sovereignty is a function of raciality that “produces the ‘others of Europe’ in affectability, as subjects which do not play in ethical life” (p. 14). As such, it “produces both the subjects of ethical life, who the halls of law and forces of the state protect, and the subjects of *necessitas*, the racial subaltern subjects whose bodies and territories...have become places where the state deploys its forces of self-preservation” (p. 14).

This understanding helps us make sense of the ways in which the colonial histories of African countries result in the overvaluation of certain subjects in relation to others. In the case of post-independence Zimbabwe: whites whose political-economic power was preserved at independence, and authoritarian national elites who have benefitted at the expense of the people in their embrace of raciality. It should also make apparent the continuities between Rhodesia’s UDI and Zimbabwean juridical independence, where the wellbeing of most people is sacrificed to the interests of a select few. It also highlights the fact that decolonisation remains an ongoing project for ‘postcolonial’ states such as Zimbabwe, with juridical sovereignty applied most forcefully to peripheral states and peoples who are pressured to internalise the epistemologies and practices of a white supremacist global capitalist system. It is for this reason that the distinction made in this paper between juridical sovereignty and juridical independence cannot be discarded in favour of the conventional understandings of juridical sovereignty and the accompanying view that sovereignty need only be extended further. The coloniality of power and being necessitates juridical sovereignty’s application vis-à-vis the civilising mission. Juridical sovereignty, therefore, stands in direct opposition to the juridical independence and self-determination of African states and

peoples. It is a governing rationality rooted in modernity's conception of Man and cannot be divorced from its roots; meaning it is irreconcilable with juridical independence.

Silva (2001) also critiques what she calls the "socio-logos of Justice" which refers to analyses and critiques of racism which treat the latter simply as a matter of an exclusion that is "foreign to the modern conception of Justice" (p. 6). She argues for the need for a "conception of race injustice that moves beyond historical and social (institutional and symbolic) processes of exclusion" (p. 6). It is not enough to think of race injustice as a result of the *shortcomings* of liberalism (of all variants), such that all that is needed is reform of political practice to match liberalism's universal claims to Justice. This is because, as shown above, "racist ideas are not extraneous to modern imagination but instead circumscribe the zone of operation of universality" (p. 6). Silva rightly locates -

the conditions of possibility of these forms of race injustice in [the] socio-logical construction of blackness to signify a domain outside the terrain of the legal, while retaining the construction of whiteness as the signifier of the form of consciousness to which principles underlying the normative scheme of Universal Justice are indigenous (p. 8).

The "socio-logic of Justice" as interrogated by Silva fails to realise that non-white subjects are by definition or necessity outside the realm of sovereignty under modernity. It is important and necessary "to address the very conditions of production of the symbolic mechanisms deployed in the constitution of people of colour as modern subaltern social subjects" (p. 9). We must acknowledge that "the primary effect of the power of race has been to produce universality itself" (p. 9). This section, however, has shown that juridical sovereignty is a central governing rationality and function of raciality that reinforces modernity's conception of Man, which is defined in opposition to non-white subjects, who are the subjects of "necessitas" (Silva, 2009, p. 5). I will now show how juridical sovereignty operated in the context of the decolonisation of African states and in that of Zimbabwean agrarian reform.

What do we fight for?

Elucidating how tensions between juridical independence and juridical sovereignty played out at the point of independence for Zimbabwe requires understanding the context in which African states became juridically independent. African states won juridical independence after the establishment of the United Nations. According to Barnett (1995) “[the UN’s] principal purpose...was to facilitate the transition from the era of empire, to globalise and universalise sovereignty as the basis of relations between states” (p. 84). Societies and peoples who had once been excluded from the realm of sovereignty “could now participate in [the international] system as equal and sovereign states” (Anghie, 2004, p. 206). This is why Britain could not accept Rhodesia’s UDI; the international community’s public attitudes towards colonial violences were changing, and majority rule by the (formerly) colonised was encouraged. The understanding of juridical sovereignty as a central governing rationality and function of raciality that I have offered, however, highlights that this transition did not preclude the continuation of ‘informal’ empire or neocolonialism. Silva’s call for a need to move beyond the socio-logic of justice also highlights that the ‘expansion’ of sovereignty to (formerly) colonised peoples is incoherent under modernity.

Leaders of newly independent states (NIS) gave precedence to juridical independence because they wanted to protect themselves from interference in their domestic politics by outside parties. The establishment of the Organisation of African Unity (OAU) in 1963, with its mandate to uphold juridical independence and commitment to the liberation of colonised African peoples, entrenched this preference (Makinda & Okumu, 2008). However, in the post-independence African state, self-determination continues to be a terrain of contestation, with different groups fighting for self-determination separate from the juridically independent colonially inherited state. This highlights one reason why juridical independence did not translate into liberation for the majority of African peoples.

Ndlovu-Gatsheni (2013), following Silva and Wynter, argues that juridical independence “diluted the liberatory ethos of decolonization and channelled it towards *emancipation* that did not question the alienating logic of modernity itself, but called for reforms within the same system” (p. 66, emphasis added). He disentangles liberation from emancipation in order to “reveal the myths and illusions of freedom bequeathed Africa by decolonization” (p. 67). He argues that “without

clearly disentangling both terms...it would be difficult to realise that the active forces of the colonial matrix unleashed by colonial modernity always fought to dilute liberation struggles into emancipatory struggles that ended up celebrating the achievement of democracy instead of freedom” (p. 67).

For Ndlovu-Gatsheni, emancipation and liberation do not mean the same thing and have different genealogies. Emancipation is understood to belong to the “discourse of the European Enlightenment” (2013, p. 68)”, and the secularisation of the human Subject and emergence of scientific (racialised) Man examined by Wynter. Emancipation is, therefore, a tool or function of modernity. It reinforces raciality and the construction of non-white subjects as existing outside the realm of sovereignty, subjects of “necessitas” (Silva, 2009, p.5). It is juridical sovereignty’s end, juridical sovereignty as emancipation. Juridical independence was, therefore, emancipatory not liberatory. This is the main reason why the ‘postcolonial’ state remains a site of contested self-determination. Authoritarian states like Zimbabwe, whose leaders claim to have liberated ordinary people from colonial domination, are just as complicit in the upholding of raciality as states like South Africa that uphold neoliberal democracy. Ndlovu-Gatsheni rightly argues that decolonisation is more than the mere “transfer of power from white colonialists to black nationalists” (2013, p. 68).

This highlights the main problem with the OAU’s upholding of both juridical sovereignty and juridical independence without care for empirical or popular sovereignty. In the post-Cold War era, emphasis is seemingly placed on the latter, and not juridical sovereignty as non-interference. There is supposed to have been a movement away from non-interference norms to an understanding of juridical sovereignty as necessitating non-indifference. States must have empirical sovereignty and external actors cannot ignore human rights abuses in other states. This is supposed to resolve the problems of legitimacy faced by ‘postcolonial’ states and to minimise if not eliminate human rights abuses, but in reality is an extension of modernity. States are said to have empirical legitimacy when their economies and societies are organised along neoliberal lines. A lack of empirical sovereignty understood as such is a threat to international peace and security, as evidenced by the pathologisation of peripheral states, which the Zimbabwean agrarian reform case will show. Juridical sovereignty, however, is actually used to undermine the realisation of empirical sovereignty in the periphery, which is said to exist only when states

organise themselves in line with central interests. But internal legitimacy cannot exist where change is dictated from the outside and above.

This is against Jackson's (1987) contention that the present and previous centuries are indicative "of a highly accommodating regime of international law and politics...an expression of [an]...anti-colonial ideology of self-determination." Jackson argues that the "revolutionaries, statesmen and diplomats who gave effect to the twentieth-century revolt against the West have succeeded *completely* in transferring sovereign statehood to Africa and other parts of the non-Western world after a century...of European colonialism" (1987, p. 520, emphasis added).

Jackson holds that these revolutionaries, statesmen and diplomats have managed to fashion a "substantially revised set of international arrangements which differ dramatically from those imperial ones that previously obstructed the globalisation of equal sovereignty" (p. 520). His analysis of the current state of international relations does not account for the coloniality of power, being and knowledge, and upholds the socio-logic of justice that Silva critiques. He takes for granted that "equal sovereignty" is indeed something that can be achieved within the present order. Nowhere does he question the episteme requiring (former) colonised peoples to seek recognition or re-organise themselves within an imperial order. For Jackson, African states became independent because the international community expanded juridical sovereignty (conventionally understood as states' right to rule over or behalf of their populace without external interference) to the formerly colonised. Independence occurred –

widely and rapidly across Africa because it...required little more than agreement or acquiescence concerning a new international legal principle that acknowledged as incipiently sovereign all colonies which desired independence. It was a legal transaction: African elites acquired title to self-government from colonial rulers, with the transfer generally recognised...by the international community and particularly the UN General Assembly (p. 528).

Jackson upholds the second conventional understanding of juridical sovereignty, predominant in today's post-Cold War era, which is that

juridical sovereignty should be recognised only where empirical sovereignty exists. He argues that African leaders did not have the capacity to govern upon becoming juridically independent, nor would they do so in the interests of their people, resulting in what he calls “quasi-states” (p. 526). This is the “foundation of [African] statehood” (Jackson, 1986, p. 2) which would not have been so in the past when demonstrations of the capacity to govern would have been required before the recognition of sovereignty. Jackson believes “it was the inability of the rulers of traditional Africa to demonstrate and defend their statehood that resulted in the almost complete colonisation of the continent by Europe” (p. 2). Were it not for the more “accommodating” international community we have today, then perhaps African states would not be independent. Whilst Jackson (1987) acknowledges that juridical independence was “a legal formality or superstructural epiphenomenon and was lacking in socioeconomic substance”, he holds that this “ignores the intrinsic value of sovereignty” (p. 521). For Jackson, the African state is problematic not because of neocolonialism and the coloniality of being and knowledge, but primarily because of the incapacity of African elites. It is the latter which undermines the value of sovereignty in an otherwise accommodating international system.

Jackson’s analysis is weakened by the fact that he upholds conventional notions of juridical sovereignty, failing to understand it as recognised *only when states organise themselves in accordance with central interests* and as, therefore, a central governing rationality and function of raciality or the coloniality of power. This prevents him from appreciating the reality that African elites are required to organise their societies and economies this way, to the detriment of their people. Juridical independence, then, becomes easily corruptible, with elites tending after their own interests to the detriment of the governed. African peoples still exist outside the realm of sovereignty, with both African elites and their people subjects of *necessitas*, but with elites enacting many and varied forms of state-sanctioned violence against their people. Quasi-states exist not only due to African elites’ incapacities, and arguing so merely reinforces the pathologisation of non-white peoples as unable to occupy seats of decision-making/authority. However, Jackson is right in that juridical independence should primarily serve the will of the people. What is needed is the determination of ways to do so in an *unaccommodating* international environment. The case of Zimbabwean agrarian reform

will highlight the challenges faced by African elites in doing so vis-à-vis juridical sovereignty.

Zimbabwe gained juridical independence on 18 April 1980 after a protracted armed struggle, inheriting the 1979 Lancaster House Constitution which restricted the radical transformation of colonial land relations by mandating ‘willing-seller, willing-buyer’ market strategies for land redistribution, a mandate that expired only in 1990 (Moyo & Yeros, 2005). Britain initially provided funds for this. The arrangement largely favoured whites and undermined the self-determination of the newly independent black nation. It also shows that, far from ceding power, the former colonial power’s interests lay in maintaining prevailing property relations, characterised by white supremacism. Thus, Zimbabweans gained juridical independence and had recognised juridical sovereignty, the latter because the internal organisation of the country was reflective of neo-colonial ‘British-Rhodesian’², white interests.

Zimbabwe “inherited a racially skewed agrarian structure and discriminatory land tenures dominated by 6000 white farmers and a few foreign and nationally owned agro-industrial estates” (Moyo, 2011, p. 941). After independence, the country’s leadership pursued the market-based land redistribution strategies of the 1979 constitution, even after the mandate’s expiration, though in evolving forms. Seventy thousand families had been resettled on three million hectares by 1990, but it was inadequate. It maintained the racialised agrarian structure and labour relations, with most of the arable land in white hands with black people providing the labour. In 1992, the government enacted legislation enabling compulsory acquisition of land, which existed alongside market-based redistribution, and was subordinate to the latter (Moyo & Yeros, 2005, p.176). The implementation, at the behest of international financial institutions, of “the Economic Structural Adjustment Programmes (ESAP) in 1990 further slowed down land redistribution, encouraged renewed land concentration and foreign ownership and

² I have hyphenated “British-Rhodesian” here because it is false to think of Rhodesian rule post-1965 UDI as distinct from British rule prior to 1965. Making such a distinction between the two carries the implication that pre-1965 Rhodesia exhibited colonial rule ‘proper’, entering a ‘post-colonial’ moment in 1965. The UDI did not extinguish the Rhodesian government’s ties to Britain nor both of their identities as colonising powers. The continuities between pre- and post-independence Rhodesian rule must be emphasised, in order to problematise the UDI itself and trace continuities between it and Zimbabwean juridical independence.

fuelled export-oriented production” (Moyo, 2011, p. 941). The state’s role in implementing substantive reforms weakened as “ESAP exposed farmers to volatile and monopolistic world markets and reinforced unequal production relations” (p. 941). Rural landlessness increased along with the retrenchment of urban workers, which “extended land hunger” (p. 941). Between 1994 and 1998, strikes and protests over low wages by industrial and agricultural workers arose. Land occupations, which had been occurring since independence, reached new heights from 1997 onwards, now led by liberation war veterans. Moyo and Yeros (2005) note that, “upon independence, Zimbabwe was riven by an outburst of wildcat strikes in urban areas (200 strikes in 1980 alone) and widespread land occupations in the countryside, in what was described as a ‘crisis of expectations’” (p. 178).

These strikes forced the government early on to implement an “‘accelerated resettlement programme’ on lands abandoned by white farmers during the war” (Moyo & Yeros, 2005, p. 179). The war veterans’ involvement in the land occupation movement in many ways made it possible for people to obtain “radical land reform through the state and against imperialism” (p. 179). Most of them lived in poverty (though many were also firmly embedded in state apparatuses, including security) and the “collapse of the state-sponsored War Veterans Compensation Fund” (p. 186) led them to make heavier demands for compensation. The influence of war veterans in state policy-making made them ideal leaders of the land occupation movement. The introduction of the Fast Track Land Reform Programme (FTLRP) in 2000, which mandated the compulsory acquisition of land without compensating white farmers, came about as a result of the balance of power in the ruling party tipping in favour of “radical nationalist solutions” (p. 188). This was due to the volatile position the ruling party was in vis-à-vis mass disaffection and an upcoming election. Thus, whilst the land occupations were a grassroots movement, the involvement of the war veterans (belonging to diverse class backgrounds) made it possible for radical changes in state policy to occur and also facilitated the movement’s co-optation by the state, given war veterans’ embedment within state apparatuses. Radical land redistribution, therefore, occurred as a result of black people rising up against the logic of modernity and its inherent protection of the white subject’s self-determination and life, and against state complicity therewith. However, the co-optation via the FTLRP of the land occupation movement by ZANU-PF created many problems for the

redistribution process (many of them to do with who the beneficiaries were to be). These problems are, however, not addressed here due to space constraints.

As a result of Zimbabwe's FTLRP, international sanctions were applied. Some of these were introduced from 1998 onwards as Zimbabwean foreign policy began to undermine western interests. Moyo and Yeros (2005) make a distinction between formal and informal sanctions. The formal included travel bans placed on key ZANU-PF politicians and "an embargo on the sale of military equipment by the UK...due to Zimbabwe's entry into the DRC conflict against US-backed rebels...and...the UK's renunciation of its historic obligations in funding land reform" (Moyo & Yeros, 2007, p. 184). (As mentioned earlier, the Lancaster House Constitution (1979) had required Britain to provide the new majority black government with funds to be offered to individual white farmers as compensation for "their" land if they agreed to sell it.) Relations with international financial institutions, the IMF and World Bank, also deteriorated, resulting in the "suspension of lending" (Moyo & Yeros, 2007, p. 184), an example of informal sanctions.

Relations between all parties deteriorated further in 2000. Funding to political parties and actors (the Movement for Democratic Change, NGOs, etc.) that opposed the ZANU-PF regime was increased, travel warnings about the country were issued, and media assaults by western actors attacking the FTLRP were published (Moyo & Yeros, 2007, p.184). The FTLRP was said to be violent because it disadvantaged whites, but a more peaceful solution could have been reached if the white minority had been willing to give up power (deimperialise) and allow for the equitable redistribution and sharing of land. Willing/seller, willing/buyer strategies were not a peaceful solution as they upheld colonial relations, including property relations. These sanctions, then, demonstrate that both the domestic and foreign policies of African states are subject to external policing, with the (un)favourability of each to western actors determining the latter's own policies towards the former. While the FTLRP was a policy primarily affecting the Zimbabwean populace through transformations of internal land relations and policy, the country's entry into the DRC conflict was a case of state policy primarily affecting external parties. However, there are similarities between the two, because the western world's response to both highlights that, at any given point in time, African states' domestic and foreign policies must align with those of one or more western actors, safeguard western interests and protect certain bodies over others.

Australia's own sanctions against the ZANU-PF government are also indicative of this trend in western powers' policies, where in 2002 it called for the expulsion of Zimbabwe from the Commonwealth and imposed its own travel bans and financial sanctions (McCraw, 2008, p. 477). Discussing the Australian response, Veracini (2003) argues that the FTLRP struck "a sensitive chord in [the] settler psyche of 'white' Commonwealth nations and especially Australia: images of angry 'blackfellows' squatting on badly disposed land and confronting a very isolated settler population commonly perceived as both demographically weak and militarily powerless represent a 'worst case scenario' that cannot fail to raise very...anxious concerns..." (p. 344).

After the FTLRP, ZANU-PF was held to lack 'empirical sovereignty', prompting western calls for a transition to 'good governance', meaning organisation of the country along neoliberal lines favourable to the 'centre' and the country's dominant class' interests. This is despite the fact that the FTLRP was rooted in society's demands and pressures for radical agrarian change and "met the needs of the people rather than the market" (Sihlongonyane, 2005, p. 159). It had internal legitimacy and, to some extent, consolidated ZANU-PF's rule. However, both of these were limited by the fact that ethnicity played a significant role in the redistribution process. While problems with the redistribution process are beyond the scope of this paper, their existence does not negate the fact that radical land redistribution was rooted in popular demand. If the centre was genuinely concerned with empirical sovereignty, then it would not have restricted the form land redistribution was to take post-independence. At the very least, support for the FTLRP and economic reconstruction afterwards would have been forthcoming. Today 'normalising' relations with the centre requires negating the gains made as a result of the FTLRP by implementing policies encouraging "extraverted accumulation", with the interests of the "semi-proletarian" peasantry and urban poor undermined (Moyo & Yeros, 2005, p. 173). It is worth noting that it took the implementation of unfavourable reforms, and not human rights abuses like the Gukurahundi massacres of the 1980s which left some 20,000 Ndebele people dead (Hawker, 2009, p. 13), to motivate these sanctions.

The experience with land redistribution recounted here highlights the difficulties of challenging modernity, even in, or especially in, a postcolonial and neo-colonised state like Zimbabwe, which has now become a pariah state subject to the centre's discipline. This pariah status does not mean that ZANU-PF does not reinforce raciality. In fact,

the opposite is true. ZANU-PF rule follows the same logic as British-Rhodesian white minority and western neo-colonial rule. The government's legitimacy is understood to be in opposition to the majority of Zimbabweans' will who are made subjects of "necessitas" (Silva, 2009, p. 5) not only by external powers, but by national elites as well. This is evidenced by the violence constantly being visited upon citizens (a category in need of problematisation) in the authoritarian postcolonial neo-colonised state, and is so despite the government's own status as a subject of "necessitas" (p. 5) under the contemporary neo-colonial white supremacist global order.

What this analysis has shown is that the recognition of Zimbabwe's juridical sovereignty post-independence was contingent upon its organisation along lines acceptable to its former colonial power and other western actors. The recognition of peripheral states' juridical sovereignty is generally contingent upon this. Juridical sovereignty is a central governing rationality and function of raciality that is used by the centre to undermine peripheral nation-building and self-determination, even while accepting the juridical independence of peripheral states vis-a-vis indirect rule. That is to say, while African states achieved juridical independence, their sovereignty has always been undermined; it can never be recognised under modernity due to the operationalization of juridical sovereignty thereof. Non-interference during the Cold War era meant discouraging military incursions by one or more states into another's territory, the centre excepted. Juridical sovereignty necessitated and continues to necessitate, in the post-Cold War era, the interference in peripheral states' affairs in order to direct their organisation onto paths favourable to the centre's interests. The recognition of Zimbabwe's juridical sovereignty by other peripheral states is subordinate to the denial thereof by the centre. This reflects the unequal distribution of power in the international system. It also channels juridical independence onto an emancipatory path that reinforces modernity and authoritarianism, instead of a liberatory one that would consistently challenge these.

Conclusion

This article has argued that juridical sovereignty is not simply a state's right to rule over or on behalf of its population without external interference. Nor is it the recognition of a state's right to do so only if it possesses empirical or popular sovereignty. Juridical sovereignty in practice is the recognition of a state's right to rule over or on behalf of

its population in *accordance with external interests*. Given global western hegemony and the violent logic of modernity that informs and maintains it, juridical sovereignty is largely a central governing rationality and function of raciality that is utilised in the subjugation of peripheral states and peoples. The latter are, by necessity, outside the terrain of sovereignty. Furthermore, national elites of 'postcolonial' states, regardless of the political configurations of each individual state (authoritarian or neoliberal democracy) reinforce the logic of modernity and raciality by permitting its violence and enacting it in turn on their populations in myriad ways. This is the case even as these national elites are themselves subjects of "necessitas". Juridical independence has been emancipatory, not liberatory. The former reinforces modernity's violence as evidenced by the many compromises that have had to be made post-independence and the continuation of authoritarian rule. It is important to understand power not only as repressive, but as productive of all those who live under it. Only then can we make sense of the complexities of the world. The question, however, remains: What do we fight for and how can we move beyond the socio-logic of justice critiqued by Silva?

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