



UNIVERSITÀ
DI SIENA 1240

The State and Supranational Orders



1. The sovereign power of the State and the International and Supranational Orders

“State” Definition

- The State is a concentrated legal system, necessary, territorial in nature, focused on general aims, independent and sovereign.
- The constitutive elements of the State are: territory, people and sovereignty
- The State is not the only legal system!!! It is simply one of them
- Other legal systems include the supranational legal systems, i.e. international organizations which can be global or regional

“Sovereignty” Definition

- Sovereignty is one of the elements of the State
- It represents the full right and power of a governing body to govern itself without any interference from others sources or bodies

“Sovereignty” Definition

- Internal sovereignty describes the relationship between a sovereign power and its own subjects
- External sovereignty refers to the relationship between a sovereign power and other states

The Transformation of Sovereignty



The Transformation of Sovereignty

- In democratic pluralistic States, the idea of sovereignty changed.
- As a consequence, States accept the idea of a limitation of sovereignty in a framework of Multi-level Constitutionalism.
- This process is facing challenges and resistances...
- Also the Globalisation transformed sovereignty.
- Globalisation describes a process by which national and regional economies, societies, and cultures have become integrated through the global network of trade, communication, immigration and transportation

Italian Constitution and the transformation of sovereignty

- Art 10: Italian laws conform to the generally recognized norms of international law
- Art. 11: Italy rejects war as an instrument of aggression against the freedom of other peoples and as a means for the settlement of international disputes. Italy agrees, on conditions of equality with other States, to the limitations of sovereignty necessary to create an order that ensures peace and justice among Nations; it promotes and encourages international organizations having such ends in view.
- Art. 117: Legislative powers shall be vested in the State and the Regions in compliance with the Constitution and with the constraints deriving from European Union law and international obligations.

Japanese Constitution: Chapter II

Renunciation of War

- **Article 9.** Aspiring sincerely to an international peace based on justice and order, the Japanese people forever renounce war as a sovereign right of the nation and the threat or use of force as means of settling international disputes.

In order to accomplish the aim of the preceding paragraph, land, sea, and air forces, as well as other war potential, will never be maintained. The right of belligerency of the state will not be recognized.