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The interrelationship between sovereignty, state building, and good governance: the case of the Kurdistan region

Dara Salam 

Department of Politics and International Studies, SOAS University of London, London, UK

ABSTRACT


The process of state building and sovereignty has long been debated in the literature to hinge on international recognition. Despite the importance of the international factor, an equally important factor in this process is the establishment of good governance grounded in democratic institutions and a culture of democratic decision-making practices. The link that will be established is between state building and governance. This will be investigated in the context of unrecognized and de facto states. By problematizing the question of sovereignty, I argue that these states should adopt the idea of reversed sovereignty whereby priority is given to governmentality and the art of government rather than to sovereignty. The case study that I will rely on for this argument is the Kurdistan Region in Iraq (KRI) and its governmental body, the Kurdistan Regional Government (KRG). Whilst the focus is on a single country study, the theoretical line has a wider reach that is intended to be applicable to a larger body of cases of unrecognized and de facto states, which are on the trails of seeking state formations.

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I. Introduction

The main point of this article is to establish the dynamic relationship between what constitutes a state in its procedural – substantive administration of justice and democratic governance as the core of this process. In this article, I will, first, discuss the relationship between sovereignty and the art of governance. I shall argue that governmentality in the Foucauldian sense will provide us with an insight about the importance and priority of the art of governance over the notion of sovereignty. Second, I try to problematize the notion of sovereignty and discuss the discontents surrounding it. I shall argue that sovereignty is conceptually based on a Westphalian model that essentially engender a peculiar meaning that is specifically applicable to the European

CONTACT Dara Salam  ds68@soas.ac.uk

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states to preserve their territorial sovereignty and the right not to be interfered with. I argue that this did not apply to other places like the Middle East. I take the example of Kurdistan to illustrate the problematic nature of the international system of sovereignty and recognition especially in light of the claim for the right to secession. Finally, I will introduce what I call reversed sovereignty which reverses the hierarchy from sovereignty on top of the hierarchy and international recognition by its side to governmentality and the art of governance on top. Some preliminary notes might be adequate to be stated here by way of clarification. Whilst the focus is on a single country study, i.e. the Kurdistan region in Iraq, the theoretical line has a wider reach that is intended to be applicable to a larger body of cases of unrecognized and de facto states, which are on the trails of seeking state formation. The notion of sovereignty discussed throughout is to be understood in the sense of statehood. It is not argued that the process of state building is wholly dependent on governance and, by implication, good governance. The cases of unrecognized and de facto states are to a large extent dependent on their parent states and the international system which may accept or reject their statehood.¹ The possibility for the establishment of a Kurdistan state, undoubtedly, hinges upon the politics of Turkey, Iran, Iraq and Syria and their descuritization of the Kurdish question. However, it is my intention here to question and problematize the international system of sovereignty that has been applied to states in the Middle East, and to argue that we should not diminish the significance of local powers and states in changing this system's design. The establishment of good governance grounded in democratic institutions and a culture of democratic decision-making practices should be equally considered as a paramount task.

II. The art of governance and the claim to sovereignty

This section will endeavour to establish two points that will support the main argument why we should consider the art of governance as paramount in the case of de facto states. First, it provides a theoretical basis of the importance of governance over that of sovereignty which will be employed in the discussion of my case of the KRI. Second, to do this, is to look at some political – philosophical traditions in which sovereignty occupies a central concept and then criticizing it by reference to Foucault's notion of governmentality and critique of sovereignty. The interconnection between the theory of sovereignty and the art of government is most clearly established in the major political theories of the sixteenth and seventeenth centuries. They predicated government and its laws and institutions on sovereignty, which was embodied in the form of the prince or monarch and, more abstractly, in the form of the state. Foucault argues that the modern government that emerged at that time can be originated from Machiavelli's text, *The Prince*, which can be characterized as the governance of the state by a sovereign. This has raised multiple questions that include different spheres of government, such as “how to govern oneself, how to be governed, how to govern others, by whom the people will accept being governed, how to become the best possible governor.”² All this signifies the manifold nature of government starting from governing the individual and society to body politic, which will raise some of the philosophical problems that are associated with the governance of any body-politic, namely the problems of “rule, legitimacy and state institutions.”³ These kinds of problems will already bring to the fore of the discussion the very characteristic of the state; its *raison d'être*, characterized by the process of ruling and exercising power over

certain people through state institutions, and its essence characterized in how legitimacy is bestowed upon its governmental body.

Sovereignty is a central concept in the political theories stretching out from Machiavelli to the social contract theorists, in that they are all preoccupied with how sovereignty can be established and maintained. This is characterized differently by each of these theorists and the most important point for them was the figure or body that could be called sovereign that acquired the essentials of ruling and exercised sovereignty over subjects or citizens and society. This has either been represented in the figure of the prince and the maintenance of his principality or in the Leviathan or government or in the General Will or the law that demanded obedience from citizens for the sovereign to be sovereign. Foucault argues that sovereignty has no end but the exercise of itself, a process that makes it circular in the sense that the main objective of sovereignty is to obey the law which is considered to be sovereign.⁴ Machiavelli and social contract philosophers have all been preoccupied with the establishment of sovereignty and for these philosophers, sovereignty is necessitated by the need for a political order to rule citizens within a government that is functional and generating a stable society. This concern with stability as one of the most significant values and ends of political institutions has, in fact, preoccupied contemporary political philosophers and contractarian theorists like Rawls.⁵

For both Machiavelli and Hobbes, the Prince or the Leviathan is the sovereign who has power unbound and unfettered by institutions and governmental structures. However, for Locke, Rousseau and Kant, the sovereign lies not in a sole figure like the prince or monarch, but in a more abstract entity such as the government or the general will or the law.⁶ The sovereign has power and authority, absolute, in the case of Machiavelli and Hobbes; but a limited one, in the case of the other theorists, over its territory and its subjects or people. These two essential components of sovereignty, namely, territory and people are what make the sovereign extant and without them any talk of sovereignty is superfluous.

In this context, the notion and practice of sovereignty implemented in the state-building processes in the Middle East and Africa represent the concept of sovereignty that is conceptualized and theorized by Machiavelli and Hobbes, and largely practised by the monarchs in Europe. The concept of sovereignty that finds its manifestations and was widely operationalized in the inception of all the states in the Middle East is centred not on a limited authority and power, though in some of them the division of power over different branches is nominally recognized. In other words, the state has not been conceived as an abstract entity with all its institutions and governing structures that should not be equated with the power and authority of the head or leader of the country – be it presidents or kings. Rather, sovereignty resides informally in the absolutist power and authority of leaders. Thus, sovereignty is *tout court* personalized in, and equated with, the will of the leader than with the state and its institutions.

Now, on the applicability of Foucault's notion of governmentality in the current analysis of the case study and the sense in which it is deployed in the argument. I shall dissect Foucault's governmentality to what I put it as govern(mentality), which encompasses his politico-philosophical system and denotes my conceptual use of the term. The notion of governmentality is Foucault's neologism for bringing both government and rationality together. It is "designed to capture the uniquely modern combination of governance by institutions [and] knowledges ... [that] captures both the phenomenon of governance by particular rationalities and grasps governing

itself as involving a rationality.”⁷ My usage of Foucault’s notion and applying it to the case study discussed here is that good governance is one that is based on knowledge and building rational structures. These are the social and political institutions that aim to create trust and a good relationship between state and society and its citizens.⁸

The distinction between sovereignty and government is one of the essential points that Foucault brings out in *Governmentality*, in his discussion of La Perrière’s anti-Machiavellian text. Foucault argues that what is important for political theory to understand and take on board as an essential demarcation is that while sovereignty is the cornerstone of all modern political theory as well as its legitimation is concerned with territory, government is an activity or art that is concerned with governing citizens in their relationship not only with the state but also with the economy. Foucault’s argument is to establish the kind of transformation that started with the centrality of sovereignty in the sixteenth and seventeenth centuries’ political theory and the emergence of a new concept of government that La Perrière defines in opposition to Machiavelli as “the right disposition of things, arranged so as to lead to a convenient end.”⁹ The ultimate task and concern of the prince in Machiavelli’s theory is how the prince should protect his principality and territory and its inhabitants. It should be noted that the issue of territory defines the conceptual framework of sovereignty not only in the modern political theory, but in the contemporary conception of international relations as a practice and discipline, which I will be expounding in the next section.

The question of territory as the fulcrum of sovereignty takes the backseat as the question of the management and government of many things that are crucial to the prosperity, development and economic life of individuals and citizens takes priority. The explanation behind this is that there may be lands and territories that have ample resources and natural advantages or disadvantages, however, the question is how to govern them. As Foucault explains, this notion of government is not a reductionist one, thought of as confined to territory alone, but it can be illustrated with the metaphor of how to govern a ship, i.e. to take charge of the sailors, boat and its cargo is to “reckon with winds, rocks and storms, and it consists in that activity of establishing a relation between the sailors who are to be taken care of and the ship which is to be taken care of, and the cargo which is to be brought safely to port, and all those eventualities like winds, rocks, storms and so on”¹⁰

The art of government is, thus, a more inclusive notion than what sovereignty in its both classic and modern notion renders. At the micro level, it is about governing and managing the family with the figure of the father as its head in patriarchal societies who as a good father manages the affairs, wealth and prosperity of the family. At the macro level, however, this art of government is seen in the process of managing the economy and the population by the state. This might sound tautological because the state has been the *locus primus* of sovereignty and sovereign power not only in the political and philosophical works of sixteenth century, but also in the seventeenth, eighteenth centuries and contemporary times, especially in the liberal political tradition which considers the state as the sole actor in delivering justice and rights and for exercising power. According to these theorists, therefore, power is located and accumulated in the sovereign, and it is this sovereignty model of power that constitutes the ground for their political theorisations.¹¹ However, after Foucault’s conceptualization of power, the political analysis that is centred on the sovereign model of power is displaced and power is seen as

diffused and manifested in various relationships.¹² This kind of power analysis applies to the political theory texts from Hobbes, Locke, Rousseau to the contemporary liberal contractarian theorists since Rawls.¹³ The demarcation line that is drawn here between sovereignty and the art of government lies in the aim, where the latter's aim is not only territory but also the efficient and just management of political economy and the good governance of the population.

III. Problematizing the question of sovereignty

1. *Sovereignty and its discontents*

The discussion of sovereignty in the disciplines is a nuanced one and the archetypal thesis that constitutes most political theory texts is about sovereign power. As discussed above, it focuses on the justification and legitimacy of this sovereign power. Sovereignty, clearly, comes in different forms as it can allude to monarchs as in the Middle Ages and later periods or to God in religious traditions or to popular sovereignty in democratic systems. The justification and legitimation of sovereignty as the authority to rule has clearly incorporated government and its institutional designs which can be characterized in the body politic or the state. In the international relations discipline, however, sovereignty is tantamount to the state that has default legitimacy by virtue of its membership in the UN or the international community or, in other words, by virtue of its recognition from the international community. The notion of sovereignty in international relations refers to the sovereignty of the state as having territorial integrity and states have been understood as the sole agents and units of analysis in IR. This is true of both realism and liberalism.¹⁴ This notion has been traditionally grounded in the “Westphalian” notion as resulted from the peace of Westphalia in 1648, which is that territory and population are the pillars of states and their recognized sovereignties.¹⁵

A helpful distinction in the international relations discipline on the different forms of sovereignty is offered by Krasner.¹⁶ He distinguishes between external and internal sovereignty. External sovereignty is the sovereignty of a state as recognized by other states and in their interstate relations. Internal sovereignty, on the other, is the authority of the state over its subjects and institutions.¹⁷ The usefulness of the distinction in the context of this paper is to reiterate the centrality of the conceptions of territory, boundaries and state structures for the notion of sovereignty. Furthermore, this distinction allows us to see the functionality of internal sovereignty in the Kurdistan region as it has a government and its institutions have authority and exert their sovereign power over its citizens. This idea is equally applicable to other unrecognized and de facto states besides Kurdistan, such as Somaliland, Rojava, Transnistria and South Ossetia. However, the notion of governmentality in the sense of good governance or as governing that involves rationality does not seem to occupy a substantial status in the discussion of sovereignty within this field. I will come back to this point, but first I would like to cast doubt on the very notion of sovereignty and the way it is conceptualized in international relations and the way it has been ingrained in the Westphalian conception.

The Westphalian model of sovereignty in the seventeenth century effected a specific meaning, that is, of non-interference after the Thirty-Year War in Europe. This model was specifically applicable to the European states that were mostly empire states and

had established their territorial sovereignty and the right not to be interfered with based on their military and expansionist power. This point attests to the fact that sovereignty only applied to the major powers that had military force, but not to those nations, e.g. in Asia, Africa and the Middle East that could not establish territorial sovereignty.¹⁸ Not only did the perception of sovereignty as practised by the European states acquire its full meaning in a spatio-temporal delineation, but its conceptualization in different fields of knowledge also adopted a Eurocentric epistemology and was analysed in that frame of thought. In fact, this Eurocentric knowledge production dominated international politics and the field of International Relations right from its inception as a discipline.¹⁹ The quintessential state sovereignty modelled on the Western state sovereignty served as a fulcrum against which all other political entities' claim for sovereignty was measured and any deviation from this Western state model was perceived as lacking the prerequisites of sovereignty. This is most clearly evident from the rather orientalist-based discussions on African states' inability to establish their own institutions and sovereign authorities.²⁰

The "Westphalian commonsense," as Siba Grovogui calls it, has been the archetypal basis for international policy makers and regime formations up until World War I, prior to which, state sovereignty had no juridical conception and foundation, but based on strength and restricted to the imperial powers. In fact, even with the emergence of a juridical conception of sovereignty based on international law that had come into being and entered the universal declarations and United Nations charter, sovereignty remained ingrained in a Westphalian commonsense. Power relations have constantly been the dominant narrative and the vehicle that drove interstate relations and determined the hierarchical structure of international politics. So, the incapability and incompetency of quasi-states in Africa and Asia and, more generally, outside the orbit of European states and the West to establish their effective institutions and governments, i.e. their positive (internal) sovereignty is attributed, according to Jackson, to the wrongheaded liberal international order that granted sovereignty, post First and Second World War, to the newly independent postcolonial states.²¹ Jackson refers this incompetency of these quasi-states to the 'negative sovereignty,' i.e. non-interference in their internal affairs, under which corrupt governments of the postcolonial states could survive.²²

Jackson's view on the question of sovereignty and its consequential application to the Global South is problematic if not misguided, at least, for two reasons. First, when the colonial powers embarked on creating many states post WWI, among others, in Central and Eastern Europe and the Middle East, they completely had different imperial intentions. As for the Central European states, the justification for establishing these states and granting them sovereignty was based on the principle of self-determination that was proclaimed by President Woodrow Wilson at the Paris peace conference in 1919. The real aim of the principle was to divest Germany from its extraterritorial possessions and not a politico-ethical principle to recognize the plight of colonized nations. This is exactly what happened in the case of redrawing the map of the Middle East and creating several states, but in this case without granting them sovereignty, rather they were put under the British or French mandate systems. The principle of self-determination was never intended to apply universally and across the colonized world. This was most lucidly pronounced by the then US Secretary of State, Robert Lansing, who forewarned the danger of universalizing this principle:

The more I think about the President's declaration as to the right of "self-determination," the more convinced I am of the danger of putting such ideas into the minds of certain races. It is bound to be the basis of impossible demands on the Peace Conference and create trouble in many lands. What effect will it have on the Irish, the Indians, the Egyptians, and the nationalists among the Boers? Will it not breed discontent, disorder and rebellion? Will not the Mohammedans of Syria and Palestine and possibly Morocco and Tripoli rely on it?²³

What this demonstrates is that postcolonial nations granted sovereignty were not on an equal footing, especially in the postcolonial Asia and Africa as compared to East and Central Europe. Negative sovereignty served to perpetuate those corrupt authorities that served the interests of the big powers which in turn helped the continuation of their grip on power. The second point to note is that dysfunctional and authoritarian and military-led rules in postcolonial states can be imputed not to sovereignty and its different forms, but to governance and governmentality. The absence or existence of sovereignty is not the foundation stone in determining the nature of the regimes installed. It is an empirical fact that there is no causal relationship between sovereignty and democratic rule. Some might argue that international legal recognition of the sovereign statehood is not a prerequisite for their democratic rules as this will not have an impact on the way political authority is exercised in that entity and to what extent these states can generate legitimacy and accountability in their relations with their own citizens.²⁴ However, while this is a correct and valid argument, a caveat is required here which is that big powers which in the reality of international politics are the sources of this recognition have major influence, through direct or indirect ways – through various intelligence or military or economic interventions and pressures, on the nature of the governments, particularly, in the Global South.²⁵

The rich industrial West and big powers have lent support to authoritarian and dictatorial states and protected them under the Westphalian system of sovereignty.²⁶ The continued support to authoritarian regimes in the Middle East and North Africa is a clear example of how democratic movements inside these states are suppressed by their rulers without intervention from big powers – only if these regimes are acting in their interests – under the pretext of the Westphalian sovereignty of non-interference. Non-intervention is upheld only in circumstances where the authoritarian regimes are cracking down on their critics. It is not non-intervention that should be the point of criticism and seen as the source of the ills, but it is the support that is provided to these regimes because they are client regimes. However, the other side of the coin of the Westphalian system is the right of intervention that the great powers see as their prerogatives to use when they deem it necessary, and this is something that is ingrained in the hierarchical system of Westphalian sovereignty. It is not always straightforward to prove when and how intervention, whether humanitarian or military, is politically and morally ever justified.²⁷

2. Kurdistan, the conundrum of recognition and the politics of sovereignty

In light of the preceding discussion of sovereignty and its problematic nature in terms of how it is conceived, established and applied to postcolonial states, it becomes clear that many smaller nations, states and non-state actors will have to face up and grapple with the system of sovereignty as delineated and solidified by its architects. It is worth noting that what upsets the system of sovereignty from the international community's perspective is the secessionist claims and independence movements that ultimately

lead to the change or dissolution of internationally agreed upon borders and diminution of the sovereignty of states that are set and drawn up by big Western colonial powers. These disturbances of state sovereignties have been most evident in the Global South, particularly in Asia, Africa and the Middle East. Here, I will focus on the rise of the Kurdistan region of Iraq as a result of multiple clashes of sovereignties that I will explain below.

One of the significant political events in the modern history of the MENA region that challenged territorial integrity and the international recognition of states was the Iraqi invasion of Kuwait and its annexation to Iraq in August 1990 by the then president of Iraq, Saddam Hussein. This attack against the sovereignty of a state did not come from secessionist movements, armed groups and non-state actors, but it was a state-state conflict.²⁸ The official Iraqi state's discourse and its media consumption espoused the claim that Kuwait's sovereignty had no legitimacy as it was originally part of Iraq but separated by colonial powers.²⁹ Although the main drivers behind the invasion of Kuwait were mainly economic reasons, over the control of oil prices and reserves, Saddam, who brutally massacred Kurds, had long been portraying himself, as the hero of Arab nationalism and unity and the saviour of the Arab people from the Zionist entity, an image that had been created and entrenched by the Baath party ideology and propaganda.³⁰ However, the invasion of Kuwait tells a story about the fragility and Eurocentrism of the system of sovereignty as devised and implemented by Western colonial powers in the Middle East at the beginning of the twentieth century.

Not only did the clash of sovereignties occur between Iraq and Kuwait but it also occurred between Iraq and the international community and, above all, within Iraq itself. On the one hand, Saddam's regime challenged an internationally recognized – and more sensitive and provocative for the superpowers, an oil rich – state by invading Kuwait and consequently annexing it to Iraq as a reclaimed territory of Iraq. This was to pose a major challenge to the new states that were formed as a result of the European colonisations of the region and their drawing of boundaries and creation of several new states. Iraq's invasion and annexation of Kuwait a decade prior to the end of the twentieth century had sent shivers across the Arab world, especially the Gulf countries. It was for that reason that Saudi Arabia was quick to invite US troops to station on its soils to avert any possible attacks by Iraq's military forces. The annexation of Kuwait and the imminent threat to Saudi Arabia by Saddam's regime were deemed as heavy blows to the sovereignty of the new states in the Middle East that were created by Britain and France – not to mention that Iraq itself is a new state and a product of colonial partitioning of the region. This annexation made Arab regimes anxious as it was music to the ears of pan-Arab nationalists and Islamists who converged on the fantasy of abolishing the borders between Arab countries and seeing the whole region as one Arab and Muslim nation.³¹ On the other hand, the Kurds' claim to autonomy in Iraq in the midst of these international upheavals and carving a *de facto* autonomous region constituted a challenge not only to the sovereignty of Iraq as a state, but also brought to the surface, in a wider sense, the unsuccessfully forced amalgamation of different ethnicities and religious groups within these newly created states in the Middle East region. The 1991 coalition attack on the Iraqi army in Kuwait and Iraq and the 2003 American-led invasion of Iraq and the toppling of Saddam's regime demonstrate how the Westphalian system of sovereignty, i.e. the right not to be interfered with, could be invalidated and

disintegrated in the case of states that are militarily and geo-strategically weak and dependent, and are unable to exploit the regional and global power imbalances to their advantage.

The international military response against Saddam's regime in 1991 that substantially weakened the state of Iraq was a political opportunity for the Kurds to revolt against the Baath regime, which committed genocide and atrocities against the Kurdish people. The Kurds drove the regime's institutions and security apparatuses out of the Kurdish territories including the oil rich city of Kirkuk. This came as a result of a popular uprising that started on 5 March 1991, in which people and Peshmerga forces engaged in street battles against the government forces. The mass uprisings eventually spread to and included all Kurdish cities and suburbs aimed at uprooting the Iraqi regime's security and intelligence services and its institutions. In analysing the dynamics between the resultant statist and institutional vacuum and the attempt to fill this vacuum and to understand the shift from one form of sovereignty to another non-statist form of sovereignty, two analytical points can be offered here.

First, in the case of a totalitarian regime like the Ba'athist regime, when popular armed uprisings occur, the destruction of its institutions often takes a holistic nature, in the sense that people see every single government building as representative of its oppressiveness and cruelty. What put this landscape of violence into motion, on different levels, was the existence of many secret dungeons that sprawled across cities and towns which the Baath security and intelligence services used to establish torture chambers. It could be argued that in most public revolts, especially in violent and armed revolts, these apparatuses alongside other public service institutions would become targets of the masses who embrace different aims and are driven by variegated interests. Thus, government institutions and buildings symbolize the spatiality of violence and terror and become justified targets in the eyes of the masses.³² The second point is the shift of sovereignty, i.e. the destruction of one form of sovereignty, here Ba'ath sovereignty, and transitioning to an internal sovereignty that did not have international recognition but existed as a *de facto* state.

There are at least two important factors, at the international level, that contributed to the establishment and survival of the KRG as an unrecognized semi-state entity from 1991 up until the American-led invasion of Iraq in 2003. First, the sovereignty of the Iraqi state had been severely discredited by the international community with the imposition of the "no-fly zones" in the north and south of the country.³³ The international coalition's military attack on Iraq's army in Kuwait and its institutions inside Iraq itself and the subsequent economic embargo waned the sovereignty of Saddam's regime as he fell out of favour with Western superpowers. Second, the emergence of the new unipolar world system that dominated world politics, after the disintegration of the Soviet Union, granted the US the sole unrivalled supremacy in the Middle East to put Saddam's rule on leash. This created the political opportunity structure for the KRG to survive within the boundaries of Iraq.

3. The right to secede

To speak of sovereignty in the context of Kurdish nationalism is to speak of secession and speaking of secession at any moment and in any given geographical space is to speak of changing the marked, not necessarily agreed upon, boundaries and

restructuring the shape of a certain territory, and ultimately demanding territorial independence. Territorial integrity, however, is the counter-secessionist strategy of all sovereign states that seek to invalidate, within their borders, secessionist movements. The right to secede and secessionist movements have been a dominant phenomenon at least since the end of the Cold War, which followed the dismantling of the Soviet Union and the socialist bloc. The right of self-determination, as discussed above, has been formulated as a result of a new era that ensued from the falling empires after WWI and it served to found new states administered by colonial powers, but never meant to empower British and French colonies to seek self-rule or independence.³⁴

However, this same principle became a magnet for the decolonization movement to seek political and economic independence for the newly established states in Asia, Africa and the Middle East, the latter one of the colonial powers' own creations. On the other hand, the right to secede was a driving principle for many ethnic groups and nationalist movements in the nineties of the last century in Eastern and Central Europe. It questioned the sovereignty of the states they were living in, and their legitimacy to rule over a diverse array of people having strong identity attachments to their ethnicities and religious groups and thus to secede from them and establish new states.

In the context of Kurdistan and the Kurds – as one of the largest stateless peoples divided over Turkey, Iraq, Iran and Syria – secession has been the long-fought for right of the Kurdish people. However, this has to be stated more carefully and accurately as to whether the Kurdish movement has been essentially a secessionist movement that demanded the creation of an independent Kurdistan, whether this has been envisaged in the form of an independent Greater Kurdistan encompassing all four parts of Kurdistan in Turkey, Iraq, Iran and Syria or separately in each of the four parts. Although the nationalism of the Kurdish movement centred mainly on self-government and achieving an autonomous region in which the language and cultural rights of the Kurds can be protected and flourish, this seems to be minimal for a nationalist movement. Secession and the quest for sovereignty have been the political manifesto only of a minority of Kurdish political movements that emerged post WWII, as in the case of PKK in its early years, and later became an inconvenient political aim until it resurfaced in the Kurdistan independence referendum in 2017.³⁵

The literature on the right of secession of minority groups, unrecognized and de facto states articulates different theories and arguments to provide the justifications for and explain why these groups and states demand secession. These theories hinge, to a large extent, on two archetypical arguments, a political and a moral justification for the right of secession.³⁶ However, in some cases, the two justifications might intertwine and secessionist movements appeal to both to make their cases for secession and independence. The political claim of self-determination that is based on the particularity of an ethnic group, their cultural and linguistic identities and a claim to a certain territory, in many cases, is reinforced with the moral-political claim of the remedial right of secession, which is based on the argument that secession is justified due to the human rights violations perpetrated by the parent state.³⁷ The political essence of the right to secede is somehow lost in the argument. Buchanan identifies the moral argument of this right which appeals to no political institution to justify it, and the other is the political-moral argument which appeals to international legal institutions to prescribe a moral response to claims of secession; and he argues that both these claims are *ethical*.³⁸ The political dimension of this right is deeply

embedded in the normative moral claim that international legal institutions should have a moral responsibility to respond to the rights of secession claimants. However, the right of unrecognized and de facto states to secede from their parent states hinges upon the power dynamics and the interests of the superpowers that drive international institutions, legal and economic. The main international actors and power players occupy the driver's seats of these institutions, and for that reason, they are politically motivated and driven by the main powers' geostrategic interests in their dealings with secession claims that conjure up new geopolitical boundaries.³⁹ The point is not to demand a moral response on the part of these institutions, but to change the structure of these international institutions that is fundamentally constituted by hierarchical power relations and to create a fairer and more egalitarian structure for international politics.

The Kurds have the moral right to secession based on the remedial conception of secession due to severe human rights violations perpetrated against them by their parent states in the four countries they live in, ranging from genocide, atrocities on the scale of crimes against humanity in the use of chemical weapons, mass killings, obliterating villages and towns to arbitrary arrests and summary executions.⁴⁰ In the appeal to these colossal acts of cruelties and crimes against humanity, the Kurds have not been able to establish a political case for their right to secede from any of the countries they have been subject to since WWI. The single most important reason for the denial of this right, even after facing such atrocities, is the structure of international politics and the geopolitical and economic interests of the big global and regional powers that essentially shape the scope of the international law and the functioning of international institutions. This clearly is in contradiction to the case of the recognition of Kosovo's secession and the ICJ's opinion on the legal validity of its referendum based on the claim of 'remedial secession' and the right to unilaterally declare secession when there are claims of human rights violation and genocide.⁴¹ The contradiction is that this didn't apply to the Kurds despite being subject to genocide and gross human rights violations.

IV. Kurdistan, governmentality and reversed sovereignty

In questioning the centrality of sovereignty in the case of Kurdish nationalism and the quest for statehood, specifically in the context of the KRI, and taking the art of government as more significant in the relationship between all three categories, I introduce what I call the idea of *reversed sovereignty*. The idea is based on the reversal of the conception of sovereignty that fundamentally relies on recognition by the international system. It, instead, takes the idea of governmentality as the starting point that induces recognition which in turn leads to the establishment of sovereign institutions. In this conceptual framework of a reversed sovereignty, the already accepted triangle that situates sovereignty at the top of the triangle, recognition at one side and government at the other is reversed (see [Figure 1](#)). It situates govern(mentality) at the top of the triangle, recognition at one side that is induced by the idea of building democratic institutions and a radical democratic arrangement based on which the society's relationship with government institutions is organized – a form of relationship that is characterized by its non-hierarchical nature. Sovereignty then, at the other side of the triangle, refers to the status in which the political entity can move towards its

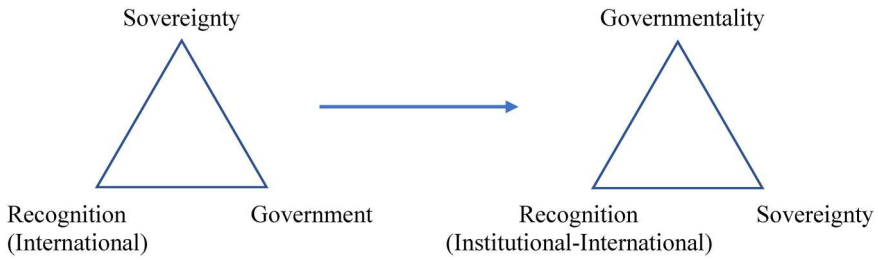


Figure 1. Conventional understanding of sovereignty based on the recognition by the international community vs. an understanding that sovereignty is not the aim but rather the building of democratic institutions based on which governance can be in a state of a non-hierarchical relationship with society at large.

own independence and inducing recognition once a democratically arranged governance and non-hierarchical institutions are established.

What lies at the heart of this argument is that sovereignty in and of itself cannot generate many essential components of states and political life. Concentrating on sovereignty as the building block of state formation without considering the regional and international power dynamics that permeate every corner of political life will be superfluous.⁴² By this I mean, even though international recognition is essential for any state to be admitted in the international club of states, the process of state building, nonetheless, is a more complex one that pivotally incorporates the question of power in the political, economic and geostrategic sense for any sovereign body to have any bearing on the international political dynamics. There is a wealth of cases, post WWII and most recent time, in which sovereignties can be encroached, violated and attacked as a result of either civil wars or big powers' military interventions under different pretexts.

The argument advanced here and the role of recognition maintained is not to show the weight that the international dimension carries in the process of state sovereignty. As the argument tries to articulate, a non-hierarchical relationship between good and democratic governance on one side, and social institutions and society as a community of citizens on the other will give legitimacy and recognition to the democratic institutions in de facto and unrecognized entities (see [Figure 2](#)).

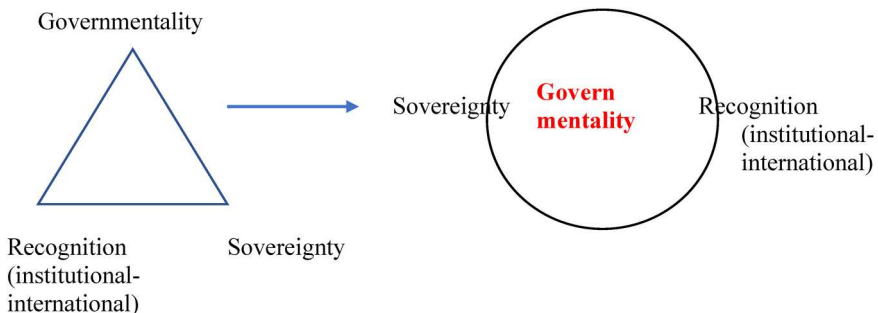


Figure 2. Showing the non-hierarchical relationship between governmentality, sovereignty and recognition formulated in societal terms.

It is equally important to note that while one of the normative conclusions of this argument could be that unrecognized polities that adopt good governance and democratic rules should be admitted to the society of sovereign states regime and granted recognition. This normative argument does not follow, and it does not rely on a moral argument to provide a justificatory power to the linear progression from democratic rule and governance to sovereignty.⁴³ It is, notwithstanding, completely reasonable and logical to infer such a normative conclusion, but as it is argued above, geostrategic dynamics play a crucial role for unrecognized states to gain independence and the case of Kurdistan shows that.⁴⁴ However, the main thrust of the argument established in this article is to think of sovereignty outside of the international system that creates an epistemological tyranny over other political imaginaries and possibilities of governmentality without centring it on sovereignty as has conventionally been considered the pillar of a viable form of any state or state-like entity.

The application of the concept of reversed sovereignty and the idea of the priority of governmentality over sovereignty to the politics and governance of the Kurdistan region proves to be an indispensable factor if such a state-like entity within a nebulous and tenuous Iraqi federal structure could survive. Having said that, the reason that the 2017 Kurdistan independence referendum did not succeed was not because of the lack of good governance *per se*, but because the US opposed it and the key regional powers, specifically Iran and Turkey stood against it.⁴⁵ Finally, the central government of Iraq crushed the results of the referendum by leading a military incursion, with Iranian help and guidance, into the cities and towns that are considered disputed territories by the Kurds and the central government in Baghdad. However, the lack of a democratic and good governance in Kurdistan has significant implications for the argument of reversed sovereignty. It has underlined the issue of the political legitimacy of the ruling elite and questioned the reasons for holding the referendum despite these significant oppositions. The leader of the referendum, Masoud Barzani, was seen by a section of the population as pursuing his personal political ambitions by rising to the presidency of the potential Kurdish state and thus created divisions than unity.⁴⁶ As some scholars have argued, the referendum came as a result of internal power competition and to suppress people's demands for change in the way governance was performed as it faced structural political and economic conundrums and its institutions were facing popular unrest and the loss of political legitimacy.⁴⁷ The rule of the two main political parties, Kurdistan Democratic Party (KDP) and Patriotic Union of Kurdistan (PUK) since 1991 up until now has been strained by mis-governance, inaptitude in managing the political economy of the region and widespread corruption that became a distinctive feature of the political elite's behaviour. The overall lack of efficient public services and the inability of the government to pay salaries have enraged people and generated a wave of continuous protests that have become a distinctive feature of people's political life. Good governance has been the major political demand by people, as the ruling political parties have, instead, focused on creating political clientelism and patronage networks to solidify their grips on power.⁴⁸ The causes and consequences of the Kurdistan independence referendum are to be viewed in light of these dimensions. There is no doubt that the Kurdistan independence hinges upon regional powers like Turkey and Iran and on the endorsement of the international superpowers for Kurdistan to separate from Iraq. This seems to be unattainable in light of the geopolitical reasons discussed here. However, what needs to be emphasized is that had the KRG established good governance, cultivated a socially emancipatory

consciousness, solidified an anti-tribalist political culture and followed a democratic rather than hegemonic system of power transfer, the call for independence and secession from Iraq based on disparate and irreconcilable forms of governance would not have led to statehood, but would have created unity among Kurdish political parties, established trust with the people and put the KRG in a stronger position.⁴⁹

The idea of reversed sovereignty emphasizes that although sovereignty occupies an important question in unrecognized and de facto states, good governance and the art of government are no less crucial for the struggle to transition from a non-state actor to a state actor. This requires rearranging social and political institutions that take governance as rationality and a knowledge production process for managing the political economy that would create a stable relation between society and government. Governance as rationality and knowledge, i.e. govern (mentality) should be considered as important as acquiring statehood by unrecognized and de facto states. The main challenge that the Kurdistan region faces in Iraq is that although Iraq is considered to have a federal structure, the behaviour of the dominant political elite in Baghdad is directed towards diminishing this federal arrangement and abolishing it altogether. The fact that the Kurdistan regional government continues to be in a weak position in its relation with the central government in Baghdad lies in its utter negligence of the idea of reversed sovereignty. The idea is that good governance, as has been discussed, should be the priority. However, the fierce competition of the Kurdish political parties for the control of the region's economic resources and political power made them corrupt forces and could not create the foundations of a good governance. The Kurdistan region in Iraq is the only entity that makes the political structure of Iraq a federal system and whether to reinforce the federal system or secede from Iraq is to establish a democratic environment for good governance by ending the duopoly over the region's police, security and military apparatuses. The institutionalization of these apparatuses and other government organs will be in conformity with the idea of prioritizing governmentality as rational and democratic governance of the political economy over seeking sovereignty which is unattainable in the current state of international politics. The stress on governmentality in the case of the KRI, and other unrecognized states, is building democratic structures for the economic, social and political institutions that help create a strong relationship and trust between the ruler and ruled, i.e. government and citizens. One of the most important aspects of the argument presented above and that would work to advance the status of the Kurdistan region and other unrecognized states is the existence of a rational governance, or governmentality that would cultivate a democratic political culture for these institutions to grow. It is in light of this priority to governmentality, as illustrated in the figures above, that the institutions will attain recognition from society as efficient and legitimate institutions.

V. Conclusion

The argument advanced here was to reconsider the relationship between sovereignty and governmentality. I argued that the concept of sovereignty has historically occupied the centre stage in the theories of Western political thinkers from the seventeenth century and in the international relations discipline. I have argued that sovereignty emerged in a specific political context and acquired its meaning as a Westphalian conception. This Westphalian conception of sovereignty has and continues to be dominant in the theories and practices of international politics and it shapes the relations

between big powers, who are the source and framers of the meaning of sovereignty. So, states that do not have actual geostrategic value and political power to exert on the international stage are not as equally sovereign as the big powers. Sovereignty is not defined by the existence of an independent political entity that is recognized by the international community, but by the existence of how much influence and coercive powers a state has in international politics. In many cases this comes as a result of the state's own resources and capabilities on different levels or because of different alliances that would put a specific state in an advantaged position. I have argued that this definition is ingrained in the Westphalian conception of sovereignty. There are several examples that illustrate this relationship between unequal sovereignties and powers. The World Bank and IMF, for instance, provide loans to developing countries on conditions of privatization, free trade, and implementation of neoliberal economic policies. They can coerce them to follow certain policies because of the power they have over these states. More importantly, there is a weighted voting structure in the IMF which is based on who has the economic power. The developed countries have the biggest say with the US having the veto power.⁵⁰

I have argued that there is a clear connection and distinction between sovereignty and the art of government or governmentality. I argued that the art of government is more important to consider than sovereignty, as it is seen as the managing of the economy and the population. This might sound tautological because the state has been the *locus primus* of sovereignty and sovereign power, at least, since the seventeenth century. However, this becomes particularly significant in the context of unrecognized and de facto states, as the art of government is focused on creating the social institutions that could effectively deliver and guarantee justice and rights. This would allow us to argue for a different understanding of how sovereignty works in the political context of these states and to introduce the conception of reversed sovereignty in which I envisage that governmentality takes priority over sovereignty and international recognition.

I have applied these theoretical points to the case of the Kurdistan region of Iraq as an example of an unrecognized or de facto state, and the Kurdistan regional government as a unit of analysis to illustrate the relationship and tensions between sovereignty and governance. I have analysed the international context in which the semi-autonomous region emerged and survived and provided arguments for the Kurds' right to secession. However, due to the geopolitical dimensions and territorial frailness of the region and the current international system of sovereignty, the claim to secession would not find support. This has been neglected, suppressed and pushed back throughout the twentieth century by the big powers and the four states in which the Kurdish people live. In this climate of international politics and the existence of a debilitated system of sovereignty that pervades the Middle East, I have argued that the KRI needs to take more seriously the question of good governance and adopt the conception of reversed sovereignty that builds a non-hierarchical relationship between governmentality and sovereignty. The case of the KRI shows the significance of the art of government as a great potential for laying the foundations of the state.

Notes

1. For a classic account of the de facto state, look at Pegg, *International Society*.
2. Foucault, "Governmentality," 87.

3. Brown, "Power After Foucault," 73.
4. Foucault, "Governmentality," 95.
5. Rawls, *A Theory of Justice*.
6. See: Locke, *Two Treatise of Government*; Rousseau, *The Social Contract*; Kant, *The Metaphysics of Morals*.
7. Brown, "Power After Foucault," 73.
8. I thank an anonymous reviewer for pressing me on this point. I should also add that good governance here does not follow the criteria set by international institutions like the IMF or World Bank which substantially focus on free trade and the privatization of the economy, and all this is done by implementing neoliberal policies.
9. Foucault, "Governmentality," 93.
10. Ibid.
11. Brown, "Power After Foucault," 69.
12. In his works on the analysis of power, Foucault argues that "[t]he essential role of the theory of right, from medieval times onwards, was to fix the legitimacy of power; that is the major problem around which the whole theory of right and sovereignty is organised." He then concludes that, "[w]e must eschew the model of Leviathan in the study of power. We must escape from the limited field of juridical sovereignty and State institutions, and instead base our analysis of power on the study of the techniques and tactics of domination." Foucault, *Power/Knowledge*, 95, 102; see also: Gordon, "Governmental Rationality."
13. The crucial point that Foucault makes in relation to what political theory's main preoccupation has been and it still continues to be so as its *idée fixe* around the justification and legitimation of political authority and sovereignty. He thus argues that "[w]hat we need, however, is a political philosophy that isn't erected around the problem of sovereignty, nor therefore around the problems of law and prohibition. We need to cut off the King's head: in political theory that has still to be done." Foucault, *Power/Knowledge*, 121.
14. See: Morgenthau, *Politics among Nations*; Waltz, *Theory of International Politics*; Slaughter, "International Law"; Moravcsik, "Taking Preferences Seriously."
15. Murphy, "Democratic Legitimacy."
16. Krasner, *Problematic Sovereignty*.
17. See also: Bouris and Kyris, "Europeanisation, Sovereignty and Contested States."
18. Chandler, "International Justice," 56.
19. Barkawi and Laffey, "The Postcolonial Moment."
20. Grovogui, "Regimes of Sovereignty," 316.
21. Ibid.
22. Jackson, *Quasi-States*; Grovogui, *ibid*.
23. Quoted in Chandler, "International Justice," 57.
24. Tansey, "Does Democracy Need Sovereignty?"; Voller, "Contested Sovereignty."
25. Grovogui makes this point in the context of postcolonial states in Africa and in connection with his criticism of Jackson's argument, he argues that it is wrong to downplay the "importance of the mechanisms of global governance that determined state capacity upon decolonization." He concludes that Jackson's analysis ignores "the structural inequities of the present international system in order to conjure up African agency after decolonization." Grovogui, "Regimes of Sovereignty," 321.
26. See, e.g. Mitchell, "McJihad."
27. There is an extensive literature on the right of intervention and on who holds that right. However, we don't have the space in this paper to delve into such a lengthy discussion. For a discussion on intervention in international law, see, e.g. Chandler, "International Justice," and the other references cited in there.
28. See, e.g. Abidi, "Origins and Dimensions of Iraqi Claim."
29. See Gause, "Sovereignty, Statecraft and Stability," 443, fn.9., where he refers to two Arab writers who provide an explanation of the conundrum of the sovereignty system in the Arab world as they argue that the prominence of family and tribal ties and nationalist feelings across Arab states and the lack of attachment to the state are the sources of interference in one another's affairs. While these factors might have played a role at certain times as the writers' argument dates back to 1983, the rulers of the newly created states in the Middle East never wanted to cede state sovereignty which has been the political and economic bases of their autocratic

- and authoritarian powers. What is more important in this context is the power imbalances between these states and regional and international alliances that provided protection. The pan-Arabism and pan-nationalism has never been about removing the boundaries drawn between Arab countries by Western colonial powers even though this discourse has been in currency for decades. Nasir was the main protagonist of pan-Arabism but an all-unified Arab state never came to fruition.
30. For more detailed and varied explanations regarding Saddam's decision to invade Kuwait and how his decision was read by and communicated with the US, see Halliday, *Islam and the Myth of Confrontation*; Gause, "Iraq's Decisions to Go to War." For the Baath's more general propaganda and ideological machine and its brutal rule in Iraq, see: Makiya, *Republic of Fear*.
 31. Gause, "Sovereignty, Statecraft and Stability."
 32. cf., Tarrow, *Power in Movement*.
 33. Gazzini, "Intervention in Iraq's Kurdish Region."
 34. Hannum, *Autonomy, Sovereignty, and Self-Determination*; Radpey, "Kurdistan on the Sèvres Centenary."
 35. I should add that Kurds have always had nationalist aspirations which date back to the establishment of the Kurdish emirates during the Ottoman period between the seventeenth and nineteenth centuries. However, these aspirations were not always thought of in terms of an independent state but more as self-rule and gaining a degree of autonomy (see the various chapters that deal with this subject in Bozarslan, Gunes, and Yadirgi, *Cambridge History of the Kurds*; see also Eppel, "The Kurdish Emirates"; McDowall, *A Modern History of the Kurds*; van Brunissen, *Agha, Shaikh and State*). After the dismantling of the Ottoman Empire, Kurds wanted to have their own state and the Kurdish delegation led by Sharif Pasha submitted a plan for this matter to the Paris Peace conference in 1919 (Atmaca, "The Road to Sèvres"). Britain, France and the Allied powers signed the Treaty of Sèvres in 1920 which recognized the establishment of an independent Kurdistan. This promise, however, was abandoned by the British after the Treaty of Lausanne in 1923 which annexed the Kurdish territories to the newly created states of Turkey, Syrian and Iraq (Ali, "The Kurds and the Lausanne"; Bajalan, "The First World War").
 36. Buchanan, "Theories of Secession."
 37. Ibid.; Caspersen, *Unrecognized States*.
 38. Buchanan, "Theories of Secession," 32.
 39. For instance, the geostrategic and economic interests of the US and Western European countries with Turkey make them oblivious to the rights of Kurds and their suppression. For the point on international organizations, see Chandler, "International Justice," 63-6, describing how "impartiality" of the Hague War Crimes Tribunal became a farce in the case of the prosecution of former Yugoslavian leaders.
 40. We can refer to the mass atrocities against the Kurds like the mass killings of Alevi Kurds in Dersim in 1937-38 by the Mustafa Kemal Atatürk's regime (van Bruinessen, "Genocide in Kurdistan?"; Deniz, "Re-Assessing Genocide of Kurdish Alevi"). The Anfal genocidal campaign in 1987-8, the chemical attack of the town of Halabja in 1988, razing to the ground of around 5000 villages in Iraqi Kurdistan by Saddam's regime (HRW, *Iraq's Crime of Genocide*). The crushing of multiple rebellions and independence movements, like the Republic of Mahabad in 1946 by the Pahlavi regime in Iran, Sheikh Said Piran in 1925, and the Republic of Mt. Ararat (1927-31).
 41. Srihari, "The Kurdistan Referendum"; Caspersen, *Unrecognized States*.
 42. For a detailed discussion of power in international relations and its multiple forms like coercive, institutional, structural and productive forms of power as manifested in local, regional and global politics, see Barnett and Duvall, *Power in Global Governance*; Laffey and Weldes, "Policing and Global Governance."
 43. This is the argument of earned sovereignty that relies on the claim of those de facto and unrecognized states which have been able to establish democratic rule and good governance and therefore they deserve recognition as sovereign states as was argued in the case of Kosovo, and this has been put in terms of 'standards before status.' For this, see Berg, "Re-Examining Sovereignty"; Caspersen, "Pursuit of International Recognition After Kosovo"; Griffiths, "Kurdistan, the International Recognition Regime." I must make it clear that my argument in this paper doesn't hinge upon a moral claim that because X is right then Y should follow or it is

morally obligatory that Y should be the case. So, it is not argued that those unrecognized and de facto states that can implement good governance, they deserve to be recognized and it is morally right that they are given recognition and sovereign status. This is certainly a valid point, but it is not one that is pursued in this paper.

44. I thank an anonymous reviewer for stressing this point.
45. Phillips, *The Great Betrayal*.
46. Park et al., “On the Independence Referendum.”
47. O’Driscoll and Baser, “Independence Referendums”; Palani et al., “Development of Kurdistan’s De Facto Statehood”; Degli Esposti, “The 2017 Independence Referendum.”
48. I will not be able to discuss these points in detail regarding the Kurdish ruling elite due to the limited space here. For various discussions on party corruption, clientelism and other related issues, see, e.g. Leezenberg, “Iraqi Kurdistan”; Costantini and O’Driscoll, “Party Politics in Quasi-States”; Hama and Abdullah, “Political Parties and Political System”; Mamshai, “Party Corruption in Kurdistan Region.”
49. Based on first-hand observation, I would contend, as many other observers in the region would agree, that the KRG is currently in a very weak position vis-a-vis the central government in Iraq as the main economic lifeline of the KRG, namely hydrocarbon resources, have been controlled by Baghdad which made the government in Kurdistan unable to pay its employees’ dues. The current state of affairs is caused by the mismanagement of the economy, corruption and lack of good governance, as discussed in this paper, as well as the tendency of the political elite in Baghdad to dissolve the federal structure and divest the KRG from any meaningful authority it has.
50. Stiglitz, *Globalization and Its Discontents*, 12; Hurrell, “Power, Institutions”; Barnett and Finnemore, “Power of Liberal International Organisations.”

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ORCID

Dara Salam  <http://orcid.org/0000-0002-0805-4105>

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