



L'annuaire du Collège de France

Cours et travaux

108 | 2008

Annuaire du Collège de France 2007-2008

Rethinking Sovereignty, Rights and International Law in the Epoch of Globalization

Résumé des conférences du Collège de France (2007-2008)

Jean Louise Cohen



Electronic version

URL: <https://journals.openedition.org/annuaire-cdf/280>

DOI: 10.4000/annuaire-cdf.280

ISBN: 978-2-7226-0136-9

ISSN: 2109-9227

Publisher

Collège de France

Printed version

Date of publication: 1 December 2008

Number of pages: 914-915

ISBN: 978-2-7226-0082-9

ISSN: 0069-5580

Electronic reference

Jean Louise Cohen, "Rethinking Sovereignty, Rights and International Law in the Epoch of Globalization", *L'annuaire du Collège de France* [Online], 108 | 2008, Online since , connection on 22 August 2022. URL: <http://journals.openedition.org/annuaire-cdf/280> ; DOI: <https://doi.org/10.4000/annuaire-cdf.280>

All rights reserved

origin continued. One of the possible sources for this transformation may have been the *Ors* guard force of the Qaghans. The *Ors* were Khwârazmian in origin and a number of the practices associated with the later Khazar Qaghans are similar to Iranian (cf. Sasanid) traditions.

Lecture IV : The Shaping of the Cuman-Qïpchaqs and their World

The Cuman-Qïpchaqs constituted an acephalous, loosely held tribal union that dominated an area extending from the Pontic Steppes to Western Siberia and Uzbekistan, a region termed the Qïpchaq Steppe (cf. Pers. Dasht-i Qipchâq). The Cuman-Qïpchaqs integrated themselves into the regional political systems, serving as difficult, occasionally predatory neighbors and sometimes allies (cemented by marital ties) of the Rus', Byzantium, Georgia, Khwârazm and Hungary. Cuman-Qïpchaq origins remain an ongoing question of Turkic Studies. They are known by a variety of names in a wide range of Turkic, Mongol, European, Transcaucasian, Islamic and Chinese sources. The Cuman-Qïpchaqs derived from elements of the Kimek confederation in Western Siberia (which contained Turkic and Mongolic elements) that was broken up (first half of the 11th century) by a series of migrations that began in the steppe borderlands of China. The contours of these events are preserved in the 12th century authors, al-Marwazî (repeated by Aufrî – early 13th century) and Matthew of Edessa. This lecture suggests some new identifications of the peoples mentioned in these accounts. It concludes with a brief overview of the Cuman-Qïpchaq religious system.

M^{me} Jean Louise COHEN

Professeur, université de Columbia (États-Unis)

Rethinking Sovereignty, Rights and International Law in the Epoch of Globalization

Two developments associated with globalization challenge the way we think about rights, sovereignty and international law. The first is the increasingly influential discourse of international human rights. This discourse has led cosmopolitan legal and moral theorists to argue that the “sovereignty” and external legitimacy of governments should be contingent on their being both non-aggressive and minimally just. A radical idea is at stake : that the international community may enforce moral principles and legal rules regulating the conduct of governments toward their own citizens. The second development is the expanding reach of global governance institutions that make authoritative policies and coercive legal rules regulating the actions of state and non-state actors. The global political system centered in the U.N. now acts in response to the proliferation of new threats to international peace and security coming from civil wars, failing states, transnational terrorism and the

risk that private individuals will acquire weapons of mass destruction. The dangers these threats pose to “human security” seem to indicate the necessity to transcend the state centric, sovereignty oriented model of international relations and international law. Indeed many have argued that we are witnessing the constitutionalisation of international law, and that the decoupling of that law from the state, means that the latter has lost legal as well as political sovereignty. Sovereignty is deemed an anachronistic concept, inadequate for understanding the new world order characterized by global politics and global law. Developments such as humanitarian intervention, transformative occupation regimes, and legislation by the United Nations Security Council to counter the “emergency” posed by global terrorism are seen as the key constitutional moments in the development of a new world order.

This lecture series will challenge the notion that we are en route to a cosmopolitan world order without the sovereign state. Instead of defending a “state-centric” sovereigntist position, however, I will argue in favor of a dualist conception of the new world order, for which the concept of changing “sovereignty regimes” is more appropriate than cosmopolitanism. I will embrace the project of the “further constitutionalisation” of international law, as the only acceptable alternative to empire or to the disintegration of the international order into regional “grossraume”, but I will do so on the basis of a constitutional pluralist, rather than a monist perspective. The first lecture will address the theoretical issues involved in rethinking the relation between sovereignty, and the globalization/constitutionalisation of international law. The second will address the question of how to think about the relation between human rights and sovereign equality, the two key principles of the global legal order, in the epoch of humanitarian intervention, construed as the enforcement by the international community of human rights. The third will address the paradoxes involved in the transformative occupations that follow upon humanitarian intervention regarding the concepts of sovereignty, popular sovereignty and self-determination. The last will take up the dilemmas produced the fact that the Security Council has started legislating in the global war on terror, in ways that undermine human rights in the name of human security and threaten both domestic as well as global constitutionalism. In each case I will argue that the legitimacy of global governance and of global governance institutions depends now on formal legal reform involving the participation of all member states, of the new world order.

1. Sovereignty and International Law Revisited : A Pluralist Perspective.
 2. Rethinking Human Rights and Sovereign Equality in the epoch of Humanitarian Intervention.
 3. Toward a Jus Post Bellum for Transformative and/or Humanitarian Occupations.
 4. A Global State of Emergency or the Further Constitutionalisation of International Law.
-