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John R. Bolton: How Barack Obama is Endangering our National Sovereignty: A Study Guide

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JOHN R. BOLTON: HOW BARACK OBAMA IS ENDANGERING OUR NATIONAL SOVEREIGNTY: A STUDY GUIDE, 2010 Steven Alan Samson

Preface

As a political concept, sovereignty was unknown in the Middle Ages, although the jurist Ulpian ascribed the *imperium* (the power to command) to the Holy Roman Emperor. Medieval monarchs were restrained by and shared power with the feudal aristocracy in a system of divided power. Following the revival of Roman law in Europe, **Jean Bodin** (1576) sought during the civil wars in France to centralize the state through an absolute monarch, as did **Thomas Hobbes** (1651) following the English Civil war. Bodin wrote that “the sovereign prince is only subject to God;” as the sovereign, he is also exempt from obedience to the laws of his predecessors and even those issued by himself. Thus “sovereignty rests in being above, beyond or excepted from the law.”

It should be noted that such a concept of sovereignty (the “king as law” rather than “the law as king”) is foreign to our constitutional tradition. It certainly violates the expectation that officeholders are subject to the same laws that apply to the people generally (see *The Federalist*, no. 57), which reflects the old Roman principle of private corporations: “What touches all in similar fashion shall by all be approved.” Ours was designed to be a system of general laws, not special privileges. The United States Constitution of 1787 does not provide for absolute legal sovereignty, only for limited and divided political sovereignty that resembles the medieval system. At issue in this “broadside” is the growing struggle between national sovereignty and global governance through international laws and organizations.

Outline

- A. INTRODUCTION: SERIAL CHIPPING AWAY AT NATIONAL SOVEREIGNTY (1-2)
 - 1. Opponents of Unfettered U.S. Sovereignty
 - a. Fashioning constraints on fundamental democratic rights
 - 2. Struggle Between Sovereignty and Global Government
 - a. Chasm between two worldviews
 - b. Only in American can we have a truly robust debate
 - 3. Fire Bell in the Night [allusion to Jefferson’s warning about the slavery issue]
 - a. A debate about *our* power and *our* government
- B. KEY ISSUES IN THE SOVEREIGNTY DEBATE DURING THE OBAMA ERA (2-15)
 - 1. *What Is “Sovereignty,” and Why Is It Especially Important for the United States?*
 - a. A range of definitions of **sovereignty**, complicated and often contradictory
 - (1) Originally described the authority of monarchs [NOTE: Jean Bodin wrote in 1576 that “the sovereign prince is only subject to God;” he also is exempt from obedience to the laws of his predecessors and more importantly, those issued by himself. Thus sovereignty rests in being above, beyond or excepted from the law. Our Constitution of 1787 does not provide for such legal sovereignty, only for limited political sovereignty].
 - (2) Bolton notes its evolution after the **Peace of Westphalia** (1648)
 - b. American **Declaration of Independence**
 - (1) Formal transfer of sovereignty from King George III to the American people
 - c. Advocates of “sharing’ or “**pooling**” **American sovereignty** with international organizations
 - 2. *What Is “Global Governance,” and Why Is It a Threat to U.S. Sovereignty?*

- a. Phrase used to a piecemeal approach to world government
 - (1) 1995 blueprint: **Our Global Neighborhood**. For an analysis, see: <http://www.sovereignty.net/p/gov/gganalysis.htm>
 - (2) Americanists vs. Globalists
 - b. Operative assumption: Inexorable decline of national sovereignty
 - (1) Globalists claim that the **treaty-making authority** limits sovereignty
 - (2) A verbal and conceptual bait and switch
 - c. This field of combat is not well-understood by politicians or the media
 - (1) The key: Seeing the big picture
 - (2) Post-WWII **conceptual breakout** in treaty-making [Monnet's regionalism]
 - (3) EU president Herman van Rompuy: 2009 is the first year of global Governance
 - (4) Precipitating events: establishment of the **G-20** and the Copenhagen climate conference
3. *What Is President Obama's View on U.S. Sovereignty?*
- a. Our first "post-American president"
 - (1) Lack of interest and experience in national security issues
 - (2) Preoccupation with restructuring domestic economy
 - b. Wilsonian worldview
 - (1) **Woodrow Wilson: Community of power, not balance of power**
 - c. Obsession with process
 - (1) Negotiation seen as policy [process replaces goal-oriented policy]
 - d. Derision of **American exceptionalism**
 - (1) Core notion of our founding a history supported by **John Winthrop** ("city upon a hill") and **Alexis de Tocqueville**
 - e. Evan Thomas on Obama's D-Day speech, 2009
 - f. Comparison with John Kerry: a "global test" of legitimacy
- C. IMMEDIATE THREATS TO U.S. SOVEREIGNTY AND CONTINUING EROSIONS (16-42)
- 1. **International "Norming"**
 - a. Advocates are invariably on the left of the political spectrum
 - b. General Assembly's "One Nation, One Vote" principle
 - (1) "Isolation" of America within international bodies
 - 2. *American National Security*
 - a. NATO's air campaign against Yugoslavia
 - (1) **Kofi Annan's** complaint: Security Council is "the sole source of legitimacy"
 - (2) Sen. Joe Biden's reaction
 - b. **Proliferation Security Initiative (PSI)**
 - 3. *Law, "International Law," and American Sovereignty*
 - a. Customary international law: "state practice"
 - b. **[Forum shopping: shopping for more sympathetic jurisdictions]:** America's statists have launched an **international power play**. [NOTE: A century ago the Progressive reform movement pursued its own version of forum shopping: either through bypassing state jurisdictions by appealing to Congress or using judicial channels or promoting constitutional amendments].
 - c. Global war on terrorism
 - (1) Treated under the **criminal law enforcement paradigm**
 - d. Order to close Guantanamo Bay terrorist detention facility
 - (1) Abandonment of "enhanced interrogation" techniques
 - e. The Security Council is AWOL on a definition of terrorism
 - f. Obama desire to join the **International Criminal Court (ICC)**: Rome Statute
 - g. More than 100 bilateral agreements [
 - h. Concept of **"universal jurisdiction"** [cf. the Progressive movement's bypassing of the states by initiated reforms at the national level]
 - (1) Devotion to international norms is designed to intimidate decision-

- makers [**chilling effect**]
- i. Priority: Limiting America's military options and capabilities
 - (1) Bush's withdrawal from the un-ratified **Anti-Ballistic Missile (ABM) Treaty, 2001**
- j. Obama's 2009 Prague speech
 - (1) Push for Comprehensive Nuclear Test Ban Treaty
 - (2) Landmines Convention
 - (3) Fissile material, arms race in space, conventional weapons
- k. Sympathy of administration officials for international "human rights" norms
- l. Their retreat into international organizations
- m. Israel as a preferred target [designated scapegoat]
 - (1) **Goldstone Report** criticized Israel's "disproportionate use of force"
 - (2) **U.N. Human Rights Council** and American membership
- n. Reluctance to use military force
 - (1) Encouragement of the enemy
 - (2) Use of **unmanned drones**
- 4. *Economic and Environmental Policy Threats to Sovereignty*
 - a. Giving global organizations taxing power independent of national governments
 - (1) **James Tobin**: proposed tax on currency transactions
 - b. Frustration over U.S. Congress's withholding of "assessed" contributions
 - (1) Efforts to end-run Congress
 - c. **Law of the Sea Treaty (LOST)**
 - (1) Royalties from undersea mining operations
 - d. Kyoto/Copenhagen global warming enterprise
 - (1) Failed effort to generate **funding** for "climate change" activities [e.g., cap-and-trade]
 - (2) Need for a fundamental debate over proposed solutions [note Roy W. Spencer]
 - e. Increased delegation of national authority to essentially unaccountable **international tribunals**
 - (1) Transfer of more of our governance beyond our effective constitutional Control
- 5. *Sovereignty and Social Issues*
 - a. **Back door to policy change**
 - (1) Multilateral negotiations
 - (2) Negotiating role play by nongovernmental organizations (NGOs)
 - (3) The debate is never over until it's over [until sovereignty is yielded]
 - b. Treaty process bypassed
 - (1) **Legislative-executive agreements**
 - (2) Insufficient legislative scrutiny [Actual title of a book: *What Makes You Think We Read the Bills?*]
 - (3) Routine adoption of international conventions
 - (4) Treaties must be taken seriously
 - c. Issue of **gun control** [the US Supreme Court's ruling notwithstanding]
 - (1) Internationalization of domestic policy issues
 - (2) Guise of curbing international trafficking in small arms and light weapons
 - (3) Real objective of the NGOs
 - (4) Arms Trade Treaty
 - (5) **Ellen Tauscher**: elimination of "indiscriminate weapons"
 - d. **Death penalty** [Pierre Manent believes that this issue epitomizes the difference between a sovereign United States and a globalizing Europe]
 - (1) Free and open debate is needed
 - (2) Ban Ki-moon
 - e. Other issues
 - (1) The question: **Who Decides?**
- D. PROTECTING AMERICAN SOVEREIGNTY IN THE AGE OF OBAMA (42-45)

1. **James Madison's Warning**
2. Nature of the Obama Presidency
 - a, Author's appeal
 - (1) Need to understand the issues that are at stake and develop international capabilities
 - (2) Need to make these issues a top priority
 - (3) Sovereignty issues are important
3. Need for Greater Attention from the Citizenry

Review

sovereignty	Peace of Westphalia	Declaration of Independence
pooling U.S. sovereignty	global governance	<i>Our Global Neighborhood</i>
treaty-making authority	post-WWII conceptual breakout	G-20
post-American president	Woodrow Wilson	obsession with process
American exceptionalism	Alexis de Tocqueville	John Kerry
international "norming"	"one nation, one vote"	Kofi Annan's view of Security Council
Proliferation Security Initiative	international power play	criminal law enforcement paradigm
International Criminal Court	Rome Statute	bilateral agreements
concept of universal jurisdiction	intimidation of decision-makers	withdrawal from un-ratified ABM Treaty
retreat into international organizations		Israel as a preferred target
Goldstone Report	U.N. Human Rights Council	unmanned drones
James Tobin	Law of the Sea Treaty	funding for "climate change" activities
delegation of national authority	back door to policy change	legislative-executive agreements
internationalization of domestic	policy issues [forum shopping]	Ellen Tauscher and gun control
death penalty	great question: Who Decides?	James Madison's warning