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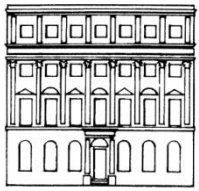

BULLETIN

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The Territorial State after 1989: Decline, Transformation, or Persistence?
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The Territorial State after 1989: Decline, Transformation, or Persistence? Conference organized by Andreas Rödder, Gerda Henkel Visiting Professor 2012/13, supported by the German Historical Institute London, the Gerda Henkel Foundation, and the London School of Economics, and held at the GHIL, 28–29 June 2013.

Not only in Germany, but all over the world, the fall of the Berlin Wall in 1989 stands for the end of the confrontation between two transnational blocs. With the coming of German unity and the end of the East–West conflict, national borders suddenly became relevant again. In the years after the collapse of the Soviet Union and the disintegration of Yugoslavia, Europe saw the foundation of many new states, as well as wars about national borders. Yet even then, many people already considered the territorial state, a 'system of rule based on borders, citizens, and sovereign power' (Andreas Rödder, Mainz/London), as a nineteenth-century phenomenon that was increasingly insignificant in a globally connected world. European integration took unprecedented strides in the 1990s, opening up the possibility of a new political order beyond national borders. The digital revolution provided new chances for global communication and identity-building. More liberal markets were increasingly withdrawing from regulation by the nation-state. International organizations were opening up the perspective of global governance. Surprisingly, however, the territorial state has made a comeback as a central actor in the financial crisis since 2008. What, therefore, has characterized the development of the territorial state since 1989: decline, transformation, or persistence?

This was the question discussed by an international circle of experts attending a conference held on 28 and 29 June at the German Historical Institute London, and supported by the Gerda Henkel Foundation and the London School of Economics. This conference drew a varied picture of the territorial state, its historical roots, and development in recent history. The conclusions the participants came to were, first, that there can be no question of a decline of the territorial and national state. In world politics, the persistence of the sovereign nation-state and the maintenance of the territorial status quo are

Trans. Angela Davies (GHIL).

The full conference programme can be found under Events and Conferences on the GHIL's website <www.ghil.ac.uk>.

considered prerequisites for international stability and peace. Second, the territorial state has demonstrated its ability to adapt to new challenges in very different areas, mainly associated with a strengthening of national executives. Despite various manifestations of change, therefore, in some areas we are justified in speaking of stronger territoriality. With cyberspace, third, a new transnational space has been created, one that gives the executives of territorial states new chances for unlimited state intervention. These new opportunities, fourth, are often achieved at the expense of civil liberties and democratic control. In democracies too, the relative weakening of state power in favour of the markets comes up against an increasing separation of state power from democratic sovereignty and the rule of law. Fifth, in the field of European integration, where the growing density of regulatory demands has resulted in greater chances and need for discretionary politics, this development paradigmatically reveals itself in the danger of de-democratization.

The starting point and reference for these discussions was Charles S. Maier's (Harvard) opening lecture on the transformation of territoriality. In it Maier, who unfortunately could not attend the conference in person, touched on his earlier argument that the historical age of territoriality has been coming to an end since the final third of the twentieth century. As the territorial state has been increasingly weakened through various manifestations of globalization, he argued, the congruence between political and economic decision space and national identity space, which was a defining feature from the mid nineteenth century to the 1970s, has dwindled.

But did an age of territoriality of this sort ever exist? John Breuilly (London) opened the discussion by questioning this narrative. He suggested that we must distinguish between territoriality as 'organized coercive power' and other ideological and economic resources of power. Since the late eighteenth century, he conceded, there had in fact been a trend towards territorialization but, he said, this was countered by limits placed on territorial penetration and even a tendency towards de-territorialization. As an example, Breuilly named the nineteenth-century informal British empire, which had largely been based on a separation between economic and political coercive power. In China, for example, Britain had secured its commercial power, but had not been able to replace the existing system of rule.

Odd Arne Westad (London) and Partha Chatterjee (Calcutta/New York) also explored the complex relationship between territoriality, sovereignty, and statehood since the early modern period by taking the examples of China and India. Westad stressed that although China has demonstrated strong territorial continuity for two centuries, even today it is not a nation-state. In the tradition of the Chinese empire, it represents more of a 'nationality zoo', he suggested, which resists a Eurocentric approach in the context of the paradigm of the nation-state. In addition, the period 1989–90 did not represent a major turning point in China's development. More important, he thought, was China's transformation into an actor on the world markets since the 1970s, which has been instrumental for China's rise. Since then China has been emphasizing its sovereignty more strongly in international politics. As Chatterjee pointed out, in the case of India we could at best speak of 'flexible sovereignty' until well into the twentieth century. Although the Mughal period's heterogeneous system of rule with its overlapping sovereignties had gradually been replaced by the British system of administration, he said, in large parts of the subcontinent the colonial power did not exercise any sort of direct territorial rule. Similar forms of power can be found in many parts of the world today, he claimed.

One of the main points debated in the discussion was the significance of the territorial state as an actor in the international system after 1989. Jeffrey Engel (Dallas) remarked that at first sight, the nation-state has suffered no apparent loss of significance. There are more territorial states in the world today than ever before, he said, covering the entire land mass of the Earth: 'There is no nowhere anymore.' Even after 1989–90, territorial sovereignty represented the 'fundamental bedrock of peace and stability'. But the question of effective control of national territories is another matter. As Engel showed in relation to US foreign policy since the 1990s, violations of sovereignty, by armed and unarmed drones, for example, have been part of US practice in the war on terror. This, he went on, did not signify any abandonment of classic notions of sovereignty, but reflected the USA's view of itself as guarantor of the international and thus also territorial status quo. US administrations regularly claimed that the USA was acting as a regulatory power only in areas with a lack of state control. By itself legalizing its actions, the USA continued to emphasize its own national sovereignty as against the norms of international law.

The USA is a superpower that strictly defends its own sovereignty, and other states imitate it in this regard. As Chatterjee showed, India, taking its cue from its neighbour China, is trying to be a strong actor in security and economic policy. 'Deepening stateness', he said, is characteristic of India's interest in the recent past and in maintaining its sovereignty at a time of globalization. This applies in the area of migration, for example. Increasing attempts by the state to control migration flows point to more rather than less territoriality, and not only in India.

Similar developments were diagnosed for cyberspace. As Maier stressed, this is a new space, rather like the oceans at one time, that has appeared alongside state-based territoriality: 'what was once the oceanic realm has found a new avatar as cyberspace.' Referring to the current controversy about the actions of the state in digital space, Engel said that this argument is supported by the fact that unlike in the physical world, national borders hardly count in cyberspace, where a 'Wild West mentality' predominates. The discussion suggested that for various reasons, states are attempting to expand their access to cyberspace, in order gradually to 'territorialize' it (Peter Hoeres, Gießen/Mainz). The losers appear to be not nation-states per se, but their citizens, who are defenceless against this development.

Even if national borders provide no protection against drones and attacks in cyberspace, they harbour enough politically explosive power of their own. After the end of the Cold War, Europe in particular experienced numerous military disputes and violent territorial conflicts which, according to Kristina Spohr (London) speak against the decline of territoriality. At the same time, many of the states created after 1990 aspired to join the European Union (EU) because this step also consolidated their territorial claims. Thus they were prepared to give up part of their newly gained national sovereignty in favour of supranational institutions.

Finally, the question of alternatives to today's territorial state was posed by taking the EU as an example. Can solutions for the territorial and transterritorial problems of modern statehood be found in regional integration and federalism? Can the EU be understood as a global 'role model for systems of newly disaggregated sovereignty' (Rödder)? Former Federal Constitutional Court judge Udo di Fabio (Bonn) doubted whether the EU's political system would inevitably supersede the territorial state in Europe. Rather, he suggested, the EU

will remain a contractual community of sovereign territorial states until the European people adopt a European constitution. Until then, EU treaties are tied to the constitutions of member states and can be revoked by sovereign national states. Bill Davies (Washington) also underlined the political significance of the EU's member states. Taking the dynamic development of the EU's legal system as an example, he showed that the sometimes conflictual interplay between European institutions and member states has always shaped the European legal community. For the Federal Republic of Germany, for example, the Federal Constitutional Court provides a safe house by opposing the trend towards constitutionalizing the European Community without a real constitution. The Federal Constitutional Court's motive in this, di Fabio argued, is less to prop up the Federal Republic's national sovereignty than to ensure democratic standards.

As Jonathan White (London) showed, the relationship between the European Community and its member states is not the only defining dualism in the EU. Rather, he argued, the EU is a political system constituted by rules and discretion, and in the Euro crisis we can observe a shift in favour of executive-dominated exceptional action. But this is nothing really new, he went on. Discretion is 'inevitable in every rule-based system' and is related to the accumulation of rules. The larger the supranational rule book, the more space opens up for exceptions—'more rules, more discretion'. Taking the example of the fiscal pact, he argued further that 'executive discretion' autopoietically gives rise to 'rule setting' at European level.

In contrast, di Fabio pointed to the limits of discretionary integration. The present crisis of the EU, he said, urgently demands that we go 'back to the rules'. For democratic reasons, the solution cannot lie in transferring ever more political powers from the member states to supranational, independent agencies, thus removing them from democratic control. We are at a turning point, he suggested, at which the logic of functional integration has obviously run up against a barrier. Questions of democratic legitimacy can no longer be excluded. Instead, what is required is a community of 'open and integrated but sovereign states'. Following on from this, Rödder asked whether governance at European level inevitably leads to a loss of democratic control. This argument was not, in principle, contradicted in the course of the discussion. The relationship between territoriality and democracy was a recurring culmination point of the conference.

Andreas Gestrich (London) pointed out that not all territorial states in the world are democracies, and that the two issues should be analytically separated. Breuilly added, however, that in democratic states there is a close connection between participation, civil rights, and a national identity space that is difficult to dissolve. Against this background, it seems obvious that the future of democracy will be closely linked with the future of territoriality. Do we not also have to ask, as Vladislav Zubok noted, what the transformation of territoriality will mean for the territorial state's 'social contract' with its citizens?

In sum, participants in the discussion generally agreed that the trajectory of the territorial states after 1990 should not be seen as a decline. As Dominik Geppert (Bonn) pointed out in his conclusion, by comparison with earlier research opinion, this view represents a clear 'shift of emphasis' towards the persistence of the nation-state. According to Rödder, there is 'not too much decline'. This, in turn, reflects current political developments, Geppert pointed out. Ultimately, the growing international significance of large territorial states such as Brazil, India, and China means that the end of territorial statehood is receding far into the distance. Economically and politically, the most recent trends seem to be 'more deeply rooted in soil' (Geppert). Maier's contribution to the conference also pointed in a similar direction. Despite all present-day contrary developments, territoriality continues to be the dominant principle, and 'territories at all scales remain the stubborn testing points for power'.

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