

Sovereignty in an Age of Global Interdependency: the Role of Borders

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4th December 2014

Sovereign decision-making within the state, and a global order of sovereign states: these are the core elements of the modern international system. The first element means sovereignty in national decision-making, and freedom from unacceptable external constraints on a people's ability to live as they choose under laws that they make for themselves, and amongst themselves. State sovereignty allows us to apply the rule of law, conduct commerce, operate markets, create the space for civil society, public discourse and cultural expression, promote democratic practices, and uphold liberties and rights.

The second element involves all states working within an international system, which has clear rules of procedure and engagement, and agreed mechanisms to facilitate cooperation. The global order relies upon adherence to rules-based behaviour – from the resolution of trade disputes and territorial boundaries, to the aversion of war and the making of peace.

This view unashamedly is premised on the assumption that the state, is and will remain, the primary unit of the global order. It was not always thus. For thousands of years, the political ordering of human territory was a patchwork of empires, kingdoms, principalities, city-states and other forms of political organisation. Indeed, for most of recorded history, political units existed within (or at the margins of) empires, or in unconquered lands beyond the frontiers and borderlands of empires.

Henry Kissinger reminds us in his latest work, *World Order: Reflections on the Character of Nations and the Course of History* (2014), that as a result of events which took place in the middle of the 17th century in Western and Central Europe, the nation-state started to become the elemental building block of the global order, following the Peace of Westphalia in 1648.

Over the next three hundred years, nation-states emerged across the globe, combining national societies (however imagined and defined) with the apparatus of the state. This system of states came to encompass every region and culture across the globe. Nation-states in turn came together, after many trials and tribulations (including the false dawn of the League of Nations), to form an extensive network of international legal and diplomatic structures. At the peak of these networks today are the United Nations and the Bretton Woods financial institutions, which were established at the end of the Second World War.

Since that war, global, regional and sub-regional networks of nation-states have created the conditions for the globalised world that we know today. In this world there is a remorseless tendency towards ever greater trade and cross-border investment flows; globalised networks of production, distribution and consumption; and ever more voluminous and rapid cross-border financial flows. There is an increased mobility of people for travel, work and permanent migration. The 'connective tissue' of the global order - global supply chains, sea lanes and ports, maritime and air travel and transport systems, international telecommunications and postal networks, financial transfer systems, and so on - are all in place as a result of the settlement and execution of agreed rules and international norms, which are established by states. This requires the negotiation of treaties and international agreements, for instance in relation to the setting of rules concerning trade and customs. It is states that have the legitimacy to do these things. The interdependence of states has created the conditions for the interdependence of economies, and 'globalisation'.

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It could be said that the political and economic dimensions of the global order are, however, in tension. As the global order seeks to become more open, with fewer constraints on the flow of people, goods, capital, data and knowledge, the primary building block of the global order – the state – retains its ancient coding as a vehicle for territoriality and exclusion. Seen in these dichotomous terms, sovereignty itself is problematical. On the one hand it is closely guarded, as is seen when laws in relation to matters such as border protection and immigration, labour and employment, quarantine and biosecurity protection, consumer protection and safety, are enacted in ways that might be seen to be 'restrictive'. Sometimes, however, sovereignty is 'given away' or pooled, as we see increasingly in the institutions of the European Union, and at a lesser scale in cross-border arrangements, such as those between the United States and Canada, and Australia and New Zealand. Sovereignty is also voluntarily fettered through the system of international law and treaties, such as the UN Convention on the Law of the Sea, which allows states to manage ocean resources and

maritime activities within their economic and territorial zones, and to manage maritime-based territorial claims.

Since the collapse of the Soviet Union and the ending of the Cold War, nearly all states have come to accept that national prosperity is dependent on the success of globalisation. As a consequence, states engage with globalisation in order to attain its fruits – even if this necessitates relinquishing what might be perceived to be the ‘rights’ of sovereignty, such as trade barriers, investment restrictions and quarantine restrictions. This does not mean that states engage with the networks and processes of globalisation uncritically, as if it were a natural phenomenon that simply has to be accepted. States condition the terms of their engagement through (amongst other things) managing their borders so as to preserve their sovereignty, to the maximum extent that is compatible with the bargains that they have struck in order to attain the benefits of global engagement.

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Borders are of course core business for a department of state concerned with immigration and border protection. Borders and sovereignty are very much linked. The latter of necessity entails the capacity and ability to determine who and what can enter and leave the territory of the state, and the conditions and limitations under which this can occur. Borders have traditionally been seen as a primary vehicle for enforcing territoriality and exclusion. Seen through the lens of the economic logic of globalisation, with its emphasis on interdependence and mobility, borders are often seen as a cost and time imposition.

As the Secretary of the department which is charged with protecting our borders, I prefer to see borders in a very different way. I see them as mediating between the imperatives of the global order, with its bias towards the flow of people, goods, capital, data and knowledge, and the inherent territoriality and capacity for exclusion which comes with state sovereignty. Rather than anticipating or, much worse, desiring the emergence of a ‘borderless world’ - a concept which makes no sense in the global order of sovereign states - we should see borders as the connection points of a globally connected world. In other words, global travel and trade, labour mobility, and the migration and movement of peoples are best mediated and managed by connected border systems.

The border is a strategic national asset. Border control points, systems and processes sit astride supply chains and travel pathways. The very design of borders can add to economic competitiveness and productivity, by fostering rapid movement and border entry or exit. Fostering legitimate trade and travel, while remaining vigilant for national security, law

enforcement and community protection purposes, and while also using border controls as an extension of economic revenue and industry policy, are not contradictory policy objectives. Today they are intrinsically integrated and connected functions of state.

Globalisation has in fact already changed the way in which borders function and are perceived. The territorially linear quality of borders is passing away in favour of increasingly connected borders. A very brief examination of the history of borders bears this out. As I said earlier, before the advent of the international system of nation-states, borders had a frontier or zonal quality. Since the earliest recorded times, rulers were always concerned to define and protect the limits of their authority, and to defend their frontiers against invasion and conquest. Due to limitations in technology and communications, borders were fluid, ill-defined and hardly monitored, other than by mobile border patrols which had more in common with military units, and sometimes actually were military units. Borders were in reality frontiers and borderlands, rather than strictly surveyed demarcations of dominion.

However, with the advent of the nation-state system in Europe, the idea of territorially linear borders became a necessary adjunct to state formation – for the purposes of enforcing laws, regulating trade, collecting taxes, duties and excise, checking travel identity and intention, and interdicting illegal, regulated or prohibited goods. With the spread of colonialism and the European model of the nation-state, borders became increasingly demarcated, particularly through the course of 19th and 20th centuries, in Africa, Asia and the Americas. Surveying and mapping international boundaries became the norm during this period. It was especially so in cases where British colonies abutted colonies of other European powers, and it became common for mapping and cartographical expeditions to be undertaken, followed often by the holding of international boundary commissions and the demarcation of boundaries by way of treaty.

Today, borders retain their function of marking legal delineations of state dominion. At regulated ports of entry and exit, cross-border flows of people and goods take place, where states are able to determine who and what has the right, or gift, of entry or exit, and under what conditions. But in the age of global interdependence, rather than being seen exclusively as a territorial barrier, we should see the border as a space where sovereign states control the flow of people and goods in to and out of their dominion.

In a competitive and connected global environment, states are more actively encouraging seamless cross-border movement based on intelligence-led assessments of border risk. Indeed the ‘flow’ model of the border, when coupled with capabilities for real-time data fusion and analytics, intelligence-based profiling and targeting of high-risk border movements, and rapid response enforcement and interdiction, in fact enhances border protection. This is

because such capabilities allow border agencies to minimise their interventions in relation to low-risk border movements, and concentrate their firepower where they can make the most difference.

With the rise of the 'flow' model, borders today tend to be dispersed and networked throughout and between societies, rather than being solely present at the edges of states and at international ports of entry. They are a continuum which spans processes of industrial production, distribution and transport, as well as the lodgement of visa applications, the purchase of airline tickets, and the ordering of goods over the internet. In other words, the processes and systems inherent in globalisation are 'hard wired' to cross borders and are reliant on the ability to rapidly move across borders. We are increasingly recognising the importance of connected and networked borders, to which I will return.

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Today, while the state remains the vital centre, a greater range of actors than ever before are affecting and, in some cases, undermining the state's ability to protect its citizens. We have seen in recent years the growing influence of non-state actors such as terrorists, insurgents and transnational criminals who are able to operate effectively across borders. Globalisation is being exploited by transnational criminal groups, which are increasingly able to capitalise on ever-expanding cross-border linkages. No matter how well we seek to improve our border controls, transnational criminal enterprises will continue to seek new ways to move people and goods across borders illegally.

As the planet continues to urbanise, as populations continue to grow and centralise in coastal cities, and as international connectivity enables globalised communications and the global movement of people and goods, the transnational criminal threat will only increase. Critically, while some of these cities suffer from a lack of good public governance and the enforcement of laws, they are connected to the global network through airports, seaports, communications cables and financial centres. In these environments, non-state groups such as drug cartels, street gangs and local warlords draw their strength from local populations, and hide amongst them. They embed themselves into legitimate networks of commerce and adopt a laundered face, which they present to the global network of trade and travel.

Such groups are actively targeting Australia, and linking with local criminal elements which have detailed 'on-the-ground' knowledge of Australian conditions. Local criminals provide the distribution networks and 'the muscle' for a range of illegal activities across the border environment, including drug importation, revenue evasion, tobacco smuggling, money

laundering, people smuggling and human trafficking, firearms trafficking, as well as trade in performance drugs, fake medicines and counterfeited goods. Increasingly, border agencies are coming to realise that they face an enemy and that they need to organise and operate accordingly.

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While non-state actors have a significant capacity to exploit the operation of the global order, it is the state - and only the state - which can decisively and legitimately shape the political and economic landscape in which we live, and protect us from the evils that I have just described. I would contend that alongside military power and statecraft, borders are the third leg of the trinity of state power which underpins and ensures state sovereignty.

What do I mean by the 'trinity of state power'? There are three essential functions of state which relate most directly to the sovereignty and security of a nation and its people: namely the defence of the nation (involving military power, and the capacity to deter attack); the conduct of its external relations (involving statecraft, which encompasses political diplomacy, trade and investment diplomacy, development assistance, and public diplomacy), and those activities of state which relate to the management of borders.

Actors who would seek to infringe our sovereignty operate in ways that blur and exploit bureaucratic lines of accountability. States tend to organise relevant functions in siloed 'vertical' lines of authority, as opposed to grouping like functions in 'horizontal' layers of capability. An example of a siloed 'vertical' line of authority is an agency which manages and enforces customs laws (Customs), and another which manages and enforces migration laws (Immigration). Actors who seek to penetrate borders simply do not similarly divide their efforts in this way. They operate seamlessly and fluidly across administrative boundaries within the state, which represent potential gaps and seams, and points of vulnerability.

This state of affairs is not always so. In its various guises over several decades, the function of Border Protection Command (BPC) – offshore civil maritime security – has been built around a different model. In that case, two competent agencies with expertise and capability in the maritime domain (Defence and Customs) jointly provide a national capability to deal with a variety of maritime threats – illegal maritime immigration, fisheries and other resource exploitation, piracy, violence at sea, maritime terrorism, pollution – on behalf of a number of policy-owning departments and agencies. There is no suggestion that BPC should be responsible for all relevant policy and legislative settings. The Joint Agency Task Force to

implement Operation Sovereign Borders, about which LTGEN Campbell spoke to ASPI on 15th May 2014, is a similar case in point.

In bringing together the functions of Immigration and Customs, we are pursuing the same logic, but on a grander scale. From 1st July 2015, these two agencies will be merged into a single department of state, which will include a new uniformed service, the Australian Border Force. The department will be responsible for immigration and citizenship; customs, including the operation of trade rules; the general system of Australia's border controls to support law enforcement, counter-terrorism, quarantine and biosecurity, public health and community protection; and Australia's offshore civil maritime security system. The new department will not necessarily be responsible for all relevant policy and legislative settings in these areas, but it will provide an integrated national capability to deliver border protection outcomes on behalf of a multitude of agencies, including at the State and Territory level.

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In terms of the enduring features of Australia's strategic border environment, a number of key observations can be made. We inhabit a continent which is shared with no other state, and we have since Federation in 1901 not had to secure land borders. Our continent is surrounded by a maritime border zone, which consists of our territorial and economic waters. This zone affords us a maritime buffer for military strategic and border protection reasons. We possess a number of key offshore territories in the Indian and Pacific Oceans, which give us military and border protection strategic depth. If we control our maritime approaches, monitor them with advanced intelligence and surveillance systems, and police them with maritime response capabilities, and the policies and procedures necessary to deal with incursions into our maritime domain, our sovereignty is significantly secured and preserved. Indeed, the ocean around us is the crown jewel of our border protection system, and we must do everything reasonable within law, resources and government policy to ensure that this remains the case.

With these natural strengths, if we work ahead of the border, with international partners, build our border intelligence capabilities, as discussed before, manage the maritime zone of which I just spoke, police ports of entry and our extensive coastline, and deal with breaches of our border effectively, by way of post-border law enforcement activities, we will be operating a layered system of border controls and defences which - rather than being at odds with the globalised economic order - will in fact be ensuring our sovereignty while enabling our access to the fruits of global interdependency.

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Of course, this consolidation of Immigration and Customs functions will also bring with it the scale and integration benefits which flow from bringing together in a single department activities such as: policy and planning; resource and budget management; people strategies and services; risk management; intelligence analysis and assessment; information management and ICT systems; technology and research; corporate services; procurement; property and facilities; professional standards; and security, assurance and audit.

To the charge that the creation of such a 'mega department' will do nothing to bring the different agency cultures and operating models of Immigration and Customs together, I would retort that by the same logic, we should still have separate departments of Defence, the Navy, Army and Air Force (these were amalgamated in the 1970s under Sir Arthur Tange), and similarly separate departments of Foreign Affairs and Trade (these were amalgamated in 1987). Indeed, I contend that the merging of Immigration and Customs, while representing a challenging change management and cultural integration programme, will not only stand the test of time, but will be seen in years to come as enduring and foundational – as significant as those other administrative changes of the 1970s and 1980s, and the more recent creation of the Department of Human Services and the expansion of the remit of DFAT to encompass development assistance and investment functions.

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In the same way as we are rethinking how the border works and how our own agency functions should be arranged at the nation-state level, the function of modern border protection is becoming increasingly networked across states, at least amongst like-minded states. Transgovernmental networks of customs and border agencies are progressively exchanging information and collaborating, either in mission-specific task forces, or by way of more enduring arrangements. The inter-connected character of the modern customs and border protection function is becoming especially critical as like agencies seek better ways to work together to both expedite trade and travel through borders, while at the same time maintaining and, wherever possible, enhancing border protection.

For instance, we are proactively pursuing regional border initiatives in Asia and the Pacific, in recognition that we have a very direct interest in the improvement of regional border protection capabilities, and in their greater connectedness and integration. Our regional borders strategy, which is being pursued with like-minded states, especially in South East

Asia, the South Pacific and South Asia, is predicated on the idea that our borders can be mobilised as a collective asset of layered controls and defences, consistent with national laws, regulations and policies. We should be aiming for increased border flows through such cooperation, while still disrupting transnational criminal groups, as well as terrorists and other illicit actors. Indeed, through our regional borders strategy, we intend to do both better. Australia is also engaged with what is known as the Border Five, which consists of the Customs administrations of Australia, Canada, New Zealand, the United Kingdom, and the United States, working together to collectively strengthen border protection and share best practice.

None of this requires a diminution of state sovereignty. Consistent with national law, regulation and policy, it requires the building of greater capacity in border controls (for instance, regarding identity checking and biometrics), pooling intelligence, coordinating operational practices and processes, strengthening integrity and professional standards systems and, where warranted, executing joint border operations and investigations.

To ensure that we are well placed to pursue these and like activities, we have decided to create in the new department an international division, which will bring together all of our international policy, engagement and capacity building efforts across immigration; customs; border controls and protection; and offshore civil maritime security. The division will take forward our global and regional borders initiatives, working very closely with colleagues from the Department of Foreign Affairs and Trade, along with other departments and agencies. I am delighted to be able to announce tonight that the International Division of the Department commenced operations on Monday, 1st December 2014. It has a significant work programme ahead of it, even before we proceed with the formal merger of Immigration and Customs next year.

This approach will also require us to think about the border in different policy terms, and indeed to lead national and international policy development efforts around the idea of connected and networked borders. To assist in this effort to become a policy powerhouse in this space, I am delighted that we have struck an agreement to support a Border Security Research Programme at ASPI next year.

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I should like to conclude my remarks tonight with some observations of the traditional work of my Department and how it will evolve in light of the framework that I have laid out in this address. I am someone who comes from a migrant background. I was born in Sydney in 1964, to parents who had migrated to Australia from Italy in the early 1960s, and who took up citizenship in 1971. I had an instant affinity with the mission and ethos of my Department, and what it has done since its establishment in July 1945, in the dying days of the war in the Pacific, to help to build our nation. The Department was set up of course in the aftermath of that war, when Australia embarked on a programme of nation-building. The expansion of our population through managed migration was central to this programme for - it has to be remembered - national defence reasons, amongst others.

Tonight I would like to pose some questions about our future, while acknowledging and celebrating the achievements of our past. In 1945, Australia had a population of fewer than 7.5 million. We were predominantly of Anglo-Celtic heritage. In June 2015, just as we prepare to celebrate the 70th anniversary of the establishment of the Department, Australia will have a population of around 24 million – around three times as many as in 1945. More than 7 million people have migrated permanently to Australia since 1945, and almost 5 million have become Australian citizens since the status of ‘Australian Citizenship’ was established in 1949. We are a more diverse society. When we transition from our current state to the new Department next year, and commence on the path of the next phase of our journey, we should take a moment to reflect on what has been achieved since 1945. I contend that we will be able to declare the original mission of 1945 – to build the population base - to have been accomplished.

Governments will, of course, from time to time make decisions about the size of the net migration programme based in part on judgements that they will make about the population base and national economic drivers. More often I suspect Governments will look to the managed migration programme to deliver a related but somewhat different outcome: tapping into the global pool of human talent for a variety of purposes, of which permanent settlement would be one factor amongst others. We live in a world that would be almost unimaginable to those who set up the Department nearly 70 years ago. Today, around 230 million people have crossed borders for temporary or permanent migration purposes. That is around 3% of the world’s population, and more than the population of Brazil. In the world of globalised travel, investment and labour mobility, the art of tapping into the resource of international human capital no longer consists of the slow and steady build up of the population base, in the way that it did seven decades ago. Today, we need a strategy and plan for attracting those in the ready-made global pool of travellers, students, skilled workers and business-people, the latter with money to invest and ideas to commercialise. Our migration

programme needs to be agile and responsive to the cut and thrust of the globalised economy. We need to work in the space of connected borders and global networks, tapping into the global pool of labour and talent.

My Department is also responsible for citizenship policy. I understand very personally and viscerally the complex issues around multiculturalism, identity and citizenship. I well remember as a young boy listening to my parents discuss the taking up of Australian citizenship, and what this meant in terms of their 'Italian identity' and their ties to 'the old country'. I can attest very personally to the fact that migrants to Australia have developed a love for it that stems from having made a new life here, rather than from ancestry. All of us—whether recent arrivals, descendants (like me) of those who arrived after Second World War or in earlier times - have sworn an oath by birth or pledge: to be loyal to Australia and its people, and to honour our hard-won freedoms, rights and liberties, our democratic beliefs, the rule of our laws and our shared national identity. As we go forward into the new phase of our departmental journey, we will still have a very important role to play in this space, particularly through the citizenship programme.

If I may say something about the topical issue of asylum seekers and refugees, without making any comment whatsoever on specific matters related to the immediate policy challenges in this space. I simply make the following observation from the point of view of good public administration: if we reframe the departmental mission in the terms that I have described in this address, namely mediating the tension between globalisation and sovereignty by managing secure and connected borders, we will be better placed to give the government of the day space in which to deal with those in need of genuine assistance, through our humanitarian and refugee programmes. It is hard to be compassionate if you are dealing with overwhelming and immediate pressures on your borders. Again, I make no comment whatsoever on specific measures to deal with recent illegal maritime arrivals. That is a matter for ministers and, in a number of crucial respects, the Parliament.

I simply pose the following public policy question: since the mid-1990s, the UN High Commission for Refugees estimates that the global population of refugees has hovered between 9-12 million people, excluding around 5 million Palestinian refugees. There are presently around 1.2 million applications for asylum or refugee status on foot. In addition, there are around 33 million internally displaced people. The UNHCR's resettlement programme generally contributes to resettling less than 1% of the world's refugees every year, with the United States, Canada and Australia carrying the lion's share of the task, both in absolute and per capita terms. Other countries face enormous challenges in terms of

hosting very large numbers of refugees, and often for long periods of time (think Turkey, Jordan, Lebanon, Iran, Pakistan, Malaysia and Thailand).

This state of affairs is simply unsustainable on a long-term basis. It is patently self-evident that it is well beyond the capacity of any one country or even group of countries to tackle the global problem of refugee flows and numbers. It is already clear to me as Secretary of the department that a sustained and multifaceted international effort is going to be required, especially one where we seize back from the people smugglers and human traffickers the control of cross-border movement. The latter treat vulnerable people as commodities, and do so with a reckless disregard for human life, something which I saw first-hand in my previous role as Chief Executive of Customs and Border Protection. These criminals will always take the initiative, if you let them. It is clear that more needs to be done by states collectively to consider how to better protect refugees closer to their country of origin; collaboratively establish regionally-based approaches; deal with orderly departure and where necessary returns; share the task of resettlement; deter and disrupt people smugglers and human traffickers; and deal with the maritime safety and security implications of sea-borne illegal people movement.

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In conclusion, tonight I have tried to set out a new way of thinking about sovereignty in an age of global interdependency, with the idea of connected and networked borders. We can attain the fruits of globalisation while preserving our sovereignty. I hope that as a result of this address you will see borders in a different light, as connectors and conduits in the age of global interdependency, as channels for flows more typically than they are barriers for exclusion. To ensure our sovereignty in a globalised world – that is the point of well managed and secure borders.