SYMPTOMS AND FACTS RELATED TO THE QUESTION OF THE „CRISIS OF THE NATION-STATE" IN THE 1990s[1]

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Was John Dunn right noting in the preface of a collection of studies on the contemporary crisis of the nation-state that states have been in a continuous crisis since the 18th century, when the Westphalian system came into existence? Recalling the wars, revolutions, upheavals, coup d'états of the past centuries, Dunn certainly had a point. Meanwhile, the territorial state is still the most successful frame of representative democracy.

Since the great transformation in Eastern and Central Europe, the issue of the crisis of the nation-state has come back to the academic and political agenda. Globalization is making the nation-state increasingly irrelevant; on the contrary, the role of the state should be increased to counter the negative (or so perceived) effects of economic and technological globalization. Mutually excluding arguments? I personally think that while each argument has its own merits, it is too early to bury the nation-state.

Some authors point out that there is a close relationship between the crisis of the state (or certain states) and the crisis of the modern international order, i.e. the order of nation-states. Going beyond the philosophical question, whether change or transformation is a cause or effect of crisis (or dysfunction), one thing is clear at the beginning of the 21st century: neither balance of power, nor collective security systems have been able to prevent war amongst nations. Both have been managed by states. States also played and continue to play a leading role in low intensity conflicts, asymmetric wars, and of course in the ongoing war against terrorism. In times of violent conflict people blame, and at the same time expect states to do something to protect them.

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[1] This is the summary of a speech delivered by the author on 13 November 2003 at the Law Faculty of Eötvös Loránd University, Budapest, within the framework of his habilitation procedure.

International (intergovernmental) institutions and organizations failed and continue to fail to provide effective global governance – beyond the prevention of war – in a number of other significant problems affecting humanity as a whole. The blame here is also usually directed toward the state: international organizations cannot do more than the member states allow them to do. There is also some truth in such an argument; however, this point is made largely by the leaders of these organizations, when inaction or failure has to be explained publicly.

In my opinion it is not possible to answer at present in a satisfactory manner the question, whether the dysfunction of the international order is a cause or a result of the deficiencies of nation-states in general, or the behaviour of particular states.

It is possible, however, to point to some phenomena and processes that are facts on the one hand, and can be interpreted as symptoms of the contemporary crisis of the nation-state on the other hand.

1. The question of legitimate possession and use of force. Under international law only states can legitimately maintain armies and other entities that have the potential to use force; the use of force by states is regulated after all by the UN Charter, while the UN in some determined cases and under precise conditions extends this recognition to other entities, for example, groups and local organizations fighting foreign military occupation. Fact is that over the past decades the number of private entities taking part in low intensity armed conflicts and/or asymmetric wars has increased alarmingly. Both particular states and the international community of states are – seemingly – largely unable to stop the process labeled „privatization of war." Key concepts at the very foundation of the international order, like: self-help, self-defense, self-affirmation, self-determination, etc. acquire new meanings. State monopoly of force becomes more and more diffuse.

2. Defending territory was from the beginning one of the core concepts of the raison d'état. In a world which tends to reject the traditional meaning of non-interference in internal affairs and at the same time not only speculates on the concept of international humanitarian intervention/war, but has experienced its reality in a number of cases, territorial integrity of states and inviolability of its borders sounds like a mantra. Such principles belonged for decades – as the great Hungarian political thinker István Bibó put it – to the unwritten constitution of international relations.

3. Sovereignty. In Europe the idea of giving up, or to put it more mildly, delegating sovereignty or some of its prerogatives to the European Union is common sense. The erosion of sovereignty is a worldwide phenomenon, even though there are still many states advocating the idea of absolute sovereignty.

4. Corruption: no question, this is also a worldwide phenomenon, primarily affecting state organs. The most coherent, just and good-will political, social, economic and other programs elaborated at national and/or international level remain dead letters, if those supposed to implement them can be diverted by short-term self-interest. And this is reality. The mere fact that in an increasing number of countries in recent years fighting corruption has become a central issue of electoral agendas, demonstrates the seriousness of the problem – but more serious is that there is virtually no, or mere a very weak window dressing follow up.

5. Legitimacy. On the domestic level in many countries there has been much talk of a „new social contract", while on the international level the discourse is more oblique. The legitimacy of UN Security Council decisions has been questioned mostly on a procedural basis, while state action without Security Council blessing has been raised almost exclusively with regard to Unites States policies and actions. The US at least seeks Security Council approval for its most controversial actions, while a number of important international developments have never even reached the agenda of the Council. The question is: since on the domestic level the fiction of a „social compact" does not work anymore, why should it be relevant on international level? One important element of the – also fictitious – „international social compact" is the principle of pacta sunt servanda. Freely undertaken obligations must be respected and implemented in good faith. Reality indicates a different practice in important areas, starting with human rights and ending with weapons of mass destruction.

6. Citizenship. The development of international human rights and humanitarian law, multiculturalism and migration has made the distinction between "we" (citizens) and „them" (non-citizens, aliens) less relevant than before. In a number of states where national, ethnic, religious and linguistic minorities exist, multiple identities are recognized and the rights attached to particular groups and individuals belonging to such groups have been institutionalized. In Europe there is a debate whether citizenship should be a criteria for minority rights. Since such rights are regarded as an integral part of universal human rights, the practice of international fora such as the Council of Europe, is that the recognition and respect for minority rights should not be conditional on citizenship. Identities, whether regional or supranational, national, ethnic, religious, linguistic, and, in general, cultural identities and individual and group behaviour based on them sometimes come into conflict with the institution of citizenship.

7. Supranational financial transactions and operations, global trade, free capital flow „without borders" have made the notion of „national economy" increasingly difficult to interpret. The global trend is towards the minimization of state intervention in economy. Autarchy and protectionism are either impossible at this stage, or states trying to implement policies based on such principles have to pay a heavy price in terms of development and standards of living of the population.

8. New technologies, and in particular developments in communications have undermined state monopoly on information. This is well known and researched. However, the future is rather unclear as regards other fields, like genetics, robotics and nanotechnologies. There is an ongoing ethical debate (but not only) on the impacts of developments in these fields on humanity in general: for example, who should take the final decision on genetic experimentation on the human embryo? Parents, the state, international organizations, or all these within the framework of an institutionalized and legally regulated process? There are also serious political concerns related to the increasing availability of weapons of mass destruction to individuals and non-state actors (nuclear, biological and chemical weapons) due to new technologies. The notion of „poor man's nuke" regarding chemical and biological weapons is a plastic description of the situation. The monopoly of the great powers and their ability to control has also been seriously undermined in these fields in the past 15 years.

9. The number of failed states has increased in the nineties. This concept is being used regarding states, where the central government collapsed (Somalia is a classic example), or the government is unable to fulfill its functions: control of the territory, providing vital social services to the population, etc. Failed states are a constant source of regional and in some cases global instability. The present international order, that is the order of nation-states has serious difficulties in coping with the situation.

In conclusion: in my opinion the nation-state (i.e. the territorial state) continues to be the most effective known framework for democracy. Alternative proposals like global governance or decentralization (subsidiarity, devolution, administrative, territorial or cultural autonomy) coupled or not with supranational integration may work in some fields – economy, trade, protection of human rights, but, for the time being, do not provide convincing answers to a number of political questions and real processes like power sharing in culturally diverse societies, mass migration, humanitarian intervention, states and territories seriously harmed by environmental or man-made catastrophes, not to mention the question of war.

States have been instrumental in accelerating the latest phase of globalization. Therefore, states must play an effective role in balancing the positive effects and countering real and potential negative aspects of global processes, in particular in trade and economics, social justice and fundamental freedoms and rights. Most governments are aware of their responsibilities – international aid and humanitarian initiatives are a proof of this – but this is certainly not enough. The time has come for a reformulation of the existing international compact, without canceling its most basic terms.